

# Agenda Ordinary (Planning) Meeting

Thursday, 11 May 2023



**BYRON**  
SHIRE  
COUNCIL

# Agenda Ordinary (Planning) Meeting

held at Conference Room, 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.

A handwritten signature in black ink, appearing to read 'Mark Arnold'.

**Mark Arnold**  
**General Manager**

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## CONFLICT OF INTERESTS

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

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

**Non-pecuniary** – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the 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)

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## RECORDING OF VOTING ON PLANNING MATTERS

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

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
  - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - (b) not including the making of an order under 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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## OATH AND AFFIRMATION FOR COUNCILLORS

Councillors are reminded of the oath of office or affirmation of office made at or before their first meeting of the council in accordance with Clause 233A of the Local Government Act 1993. This includes undertaking the duties of the office of councillor in the best interests of the people of Byron Shire and the Byron Shire Council and faithfully and impartially carrying out the functions, powers, authorities and discretions vested under the Act or any other Act to the best of one's ability and judgment.

# BYRON SHIRE COUNCIL

## BUSINESS OF ORDINARY (PLANNING) MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. ATTENDANCE BY AUDIO-VISUAL LINK
4. REQUESTS FOR LEAVE OF ABSENCE
5. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
6. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.14 CODE OF CONDUCT FOR COUNCILLORS)
7. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
  - 7.1 Ordinary (Planning) Meeting held on 13 April 2023
8. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
9. NOTICES OF MOTION
  - 9.1 TAHE strategy for preserving a usable rail corridor ..... 8
  - 9.2 Lennox Head to Byron recreational coastal pathway ..... 10
10. MAYORAL MINUTE
  - 10.1 Damaging increase in Emergency Services Levy costs ..... 16
11. PETITIONS
12. DELEGATES' REPORTS
13. STAFF REPORTS
  - General Manager**
    - 13.1 Byron Music Festival - temporary suspension of alcohol restrictions Denning Park ..... 19
  - Sustainable Environment and Economy**
    - 13.2 PLANNING - Development Application No. 10.2022.367.1 - Use of studio including alterations and additions - 4/133-141 Broken Head Road Suffolk Park ..... 25
    - 13.3 Place Planning Collective Expression of Interest: Selection of Federal Representatives ..... 52
    - 13.4 Byron Music Festival - request to alter Council Resolution 22-509 ..... 56

# BYRON SHIRE COUNCIL

## 14. REPORTS OF COMMITTEES

### Infrastructure Services

- 14.1 Report of the Local Traffic Committee Meeting held on 18 April 2023..... 63

## 15. QUESTIONS WITH NOTICE

- 15.1 Council's herbicide usage..... 68

*Questions with Notice: A response to Questions with Notice will be provided at the meeting if possible, that response will be included in the meeting minutes. If a response is unable to be provided the question will be taken on notice, with an answer to be provided to the person/organisation prior to the next Ordinary Meeting and placed on Councils website [www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice](http://www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice)*

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

**NOTICES OF MOTION**

**Notice of Motion No. 9.1 TAHE strategy for preserving a usable rail corridor**

5 **File No:** I2023/594

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10 We move that Council writes to TAHE, to Transport for NSW, to the NSW Minister for Transport (Jo Haylen), and to the NSW Minister for Regional Transport and Roads (Jenny Aitchison) regarding preservation of the Casino to Murwillumbah Railway Land (the rail corridor) within Byron Shire and invites them to attend a Councillor Workshop to be held in June or August 2023 or, if unable to attend, to respond in writing to the issues we raise below:

- 15 1. Does TAHE use a strategic approach when selling parts of the rail corridor within Byron Shire, such that minimum widths are maintained at each point along the corridor?
2. Does TAHE take account of future transport needs of the corridor such as, for example:
- 20 (a) addition of a shared path for pedestrians and bicycles,  
(b) possible duplication of tracks for rail transport, and  
(c) possible connection of new villages that could be enabled by such transport.
- 25 3. Whether TAHE can adopt an approach to ensure the sale or transfer of corridor assets will not prevent dual tracks between Billinudgel and Bangalow plus appropriate sidings where needed.

Signed: Crs Duncan Dey and Peter Westheimer

30 **Councillor's supporting information:**

At Council's meeting on 13 April 2023, we approved TAHE's Development Application 10.2022.159.1 for a boundary adjustment that takes 261 m<sup>2</sup> of the corridor and adds it to a neighbouring private allotment. The width of the rectangle was about 7 metres and brings the common boundary of the adjusted Lot onto the same line as its neighbouring private  
35 land to the east.



# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

This seemed reasonable and the untrained eye would judge that the new configuration will not impede future uses of the corridor.

- 5 However, the DA only came to the attention of elected Councillors ‘by accident’ in that the remaining corridor land includes a tiny area of *coastal wetlands*, making the proposal a “designated development” under the NSW Government’s *Resilience and Hazards SEPP 2021*.

Some Councillors expressed concern that there may be other DA’s that prepare corridor land for transfer into private hands, whether by boundary adjustment, sale or by any other means. We would like to be kept in the loop on these matters.

- 10 We wish to strategically plan for the very likely increase in visitation and permanent population of the Shire, by ensuring that the existing rail corridor is put to the best possible use in moving people and in easing motor vehicle congestion and emissions issues.

### **Staff comments**

- 15 **by Phil Warner, Manager Assets & Major Projects, Infrastructure Services:**

Letters can be sent in accordance with the motion.

### **Financial/Resource/Legal Implications:**

Not applicable

### **Is the proposal consistent with any Delivery Program tasks?**

- 20 The proposal is in accordance the CSP as per below.

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
<b>5: Connected Infrastructure</b> We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.1: Provide a safe, reliable, and accessible transport network	5.1.4: Multi-use rail corridor - Activate the rail corridor for multi-use that provides expanded active and shared transport options catering to visitors and residents	5.1.4.1	Investigate use of the rail corridor

**Notice of Motion No. 9.2 Lennox Head to Byron recreational coastal pathway**

**File No:** I2023/622

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**I move that Council:**

1. **Provides in principle support for the continuation of the recreational coastal pathway from Lennox Head to Byron Bay.**
- 10 2. **Supports and joins with Ballina Shire Council in its efforts to seek funding to allow this project to be advanced through the planning and design stages.**

**Signed: Cr Michael Lyon**

15 **Councillor's supporting information:**

A similar motion was passed as a Mayoral Minute by Ballina Shire Council in March 2023, and they are seeking a sister motion from us to join forces in attempting to secure funding for this walking/cycling path. While the specifics of the route, and the viability of it with respect to certain areas such as the Broken Head Nature Reserve, are yet to be  
20 determined, I believe we can provide in-principal support for further investigation.

The background to the Mayoral Minute passed unanimously by Ballina Shire Council is as follows:

*This project is a perfect example of where Councils can work together to deliver positive outcomes for their communities and the demonstration of support for this project from Ballina and Byron Shire Councils will also assist in securing grant funding, as the State and Federal Governments regularly prefer to fund projects that have support across multiple Councils.*

25

**Staff comments**

30 **by James Flockton, Infrastructure Planning Coordinator, Infrastructure Services:**

The proposed resolution is supported only if suitable funding can be found to fund the investigations.

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.2

While the concept is clear, the constraints for various routes options are complex and require further investigation before a route could be planned and designed. Therefore, a routes options assessment would be the preferred first step.

5 Further, Ballina Council staff have approached Byron Shire Council staff following the below Ballina Council Resolution from October 2021.

For this reason, additions to the resolution are recommended.

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**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 28/10/21 AT 9.00AM**

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**11.6 Notice of Motion - Northern Rivers Rail Trail**

**281021/11 RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council receive a report on options and estimated costs to extend the shared path (cycleways) networks in Council's main population centres of Ballina, Alstonville and Lennox Head to the Northern Rivers Trail route to maximize the benefits of the rail trail to our residents and to also support our local tourism economy.
2. That staff liaise with Byron Shire Council to commence negotiations for a bikeway between Lennox Head and Byron Bay and any grant funding opportunities.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Nathan Willis

10 It is proposed that Byron and Ballina Councils work together on Active Transport connections between the two Shires as one options investigation in order to create a clear high-level plan before commencing planning and design of prioritised projects. This could be achieved via the below recommendation.

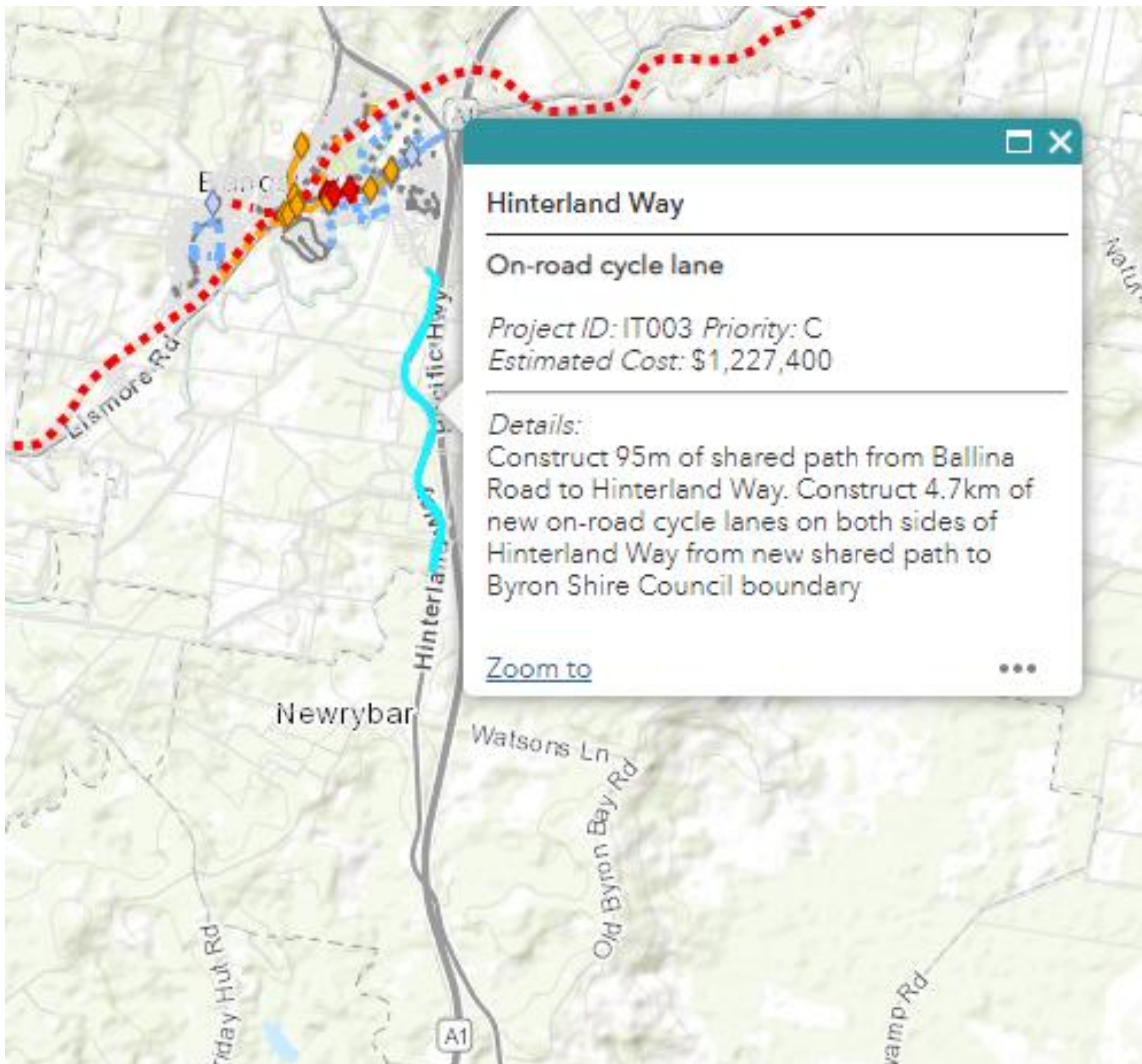
**That Council supports and joins with Ballina Shire Council in its efforts to improve Active Transport connectivity between the two Shires through the following.**

- 15 1. **Provide in principle support for the continuation of the recreational coastal pathway from Lennox Head to Byron Bay.**
2. **Seek a joint funding opportunity for a route options study into routes to link the recreational coastal pathway from Lennox Head to Byron Bay, including active transport linkages to potential future Rail Trails in the Shire.**

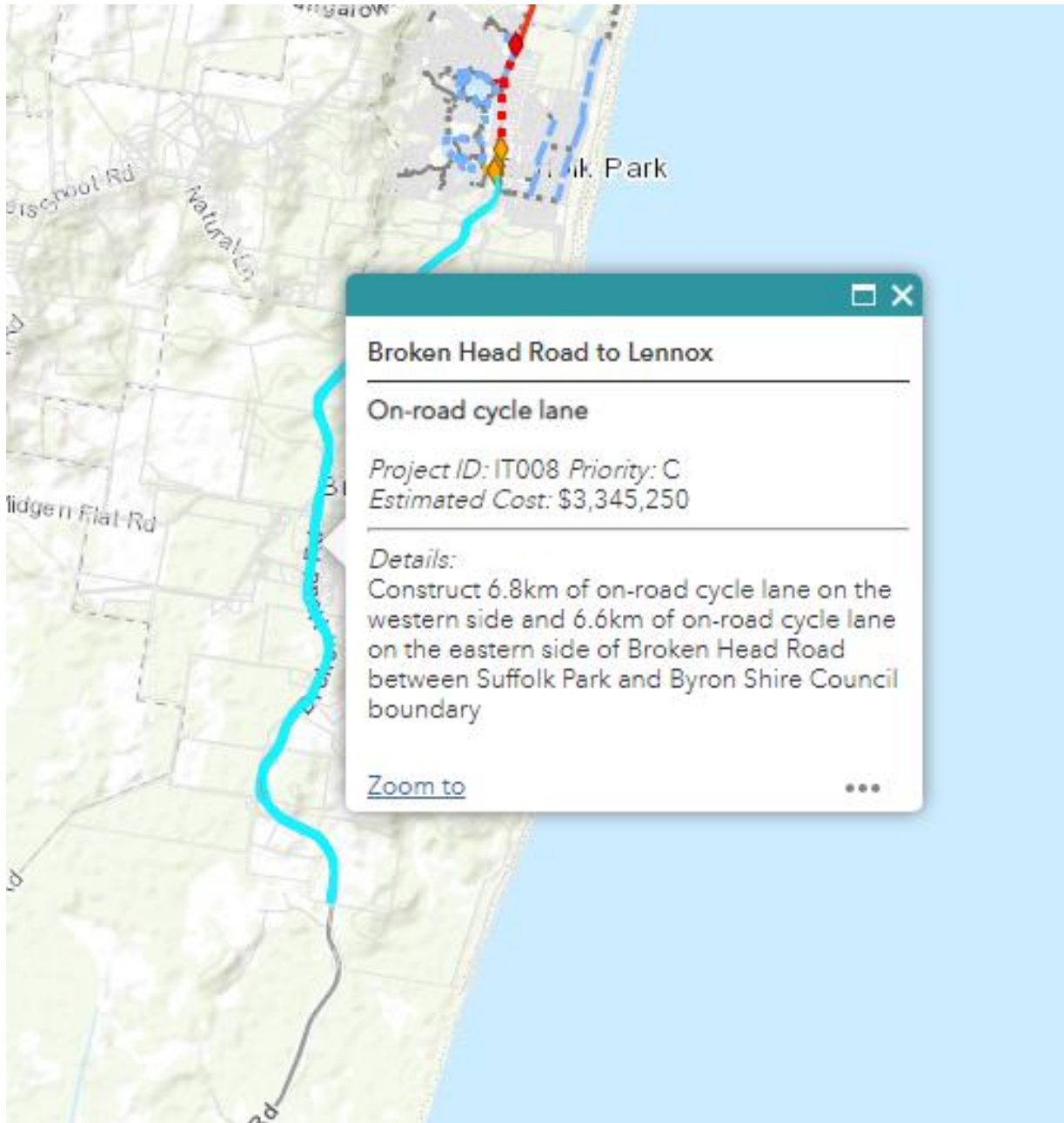
Council currently has the following proposals in the Bike Plan:

This Hinterland Way connection would support proposals from Ballina Council to achieve a safe active transport link to Bangalow and future rail trails. Ballina Council staff are considering options for cycle lanes/cycle path/widened road shoulders or the like to provide an improved cycling connection between Bangalow and Ballina.

5



This on road cycle lane does not link to the coastal path but could provide an alternate link should a route not be feasible via Broken Head.

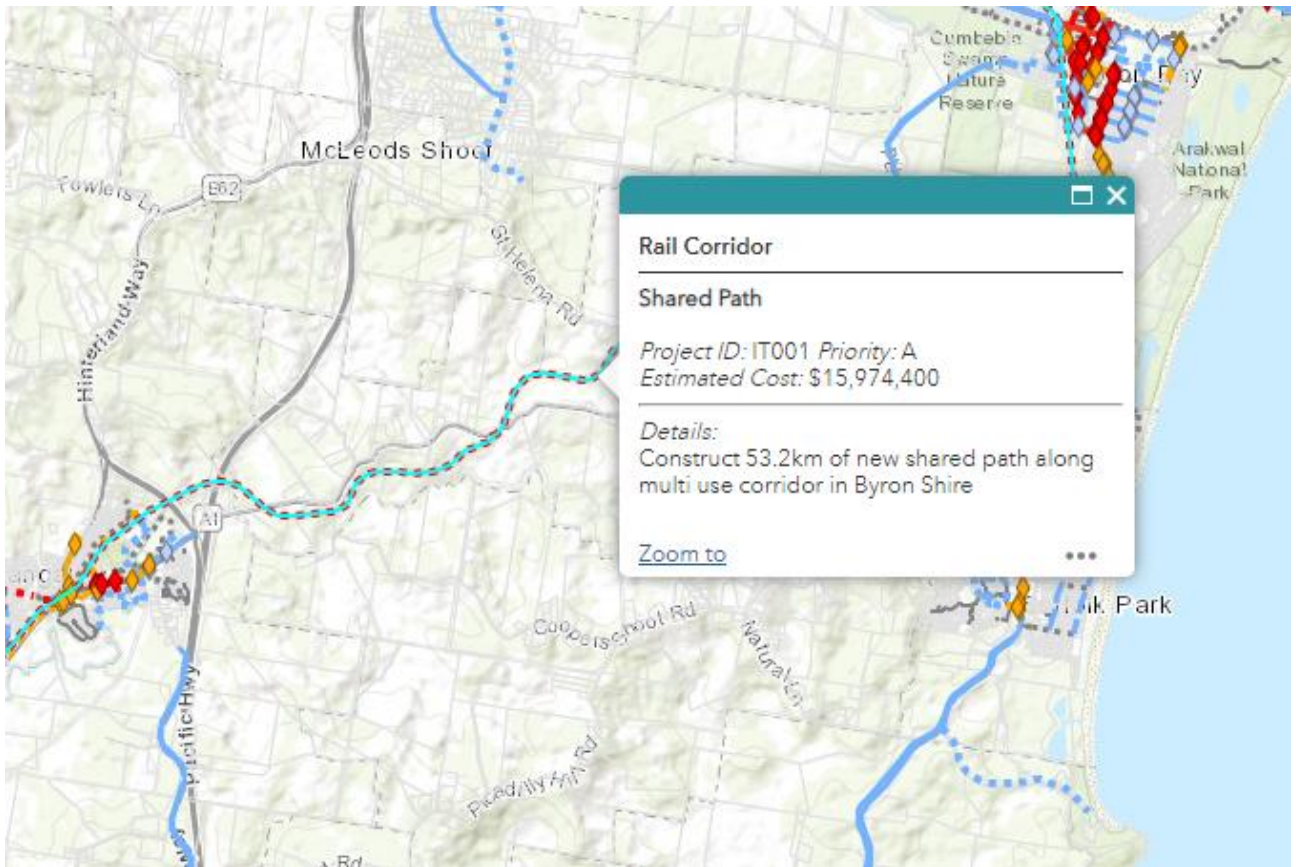


# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.2

This priority A route is along the rail corridor and would also provide an active transport link to Lennox Head and Ballina with Bangalow should the coastal path be linked to Suffolk Park and Byron Bay.



5

First two projects above are priority C. Council is yet to complete all priority A paths.

More detail can be found at [Map of existing and proposed cycling infrastructure - Byron Shire Council \(nsw.gov.au\)](https://www.byronshire.nsw.gov.au/infrastructure/cycling)

### **Financial/Resource/Legal Implications:**

10 The proposed actions are not currently funded.

Funding will be required to commence the proposed investigations.

### **Is the proposal consistent with any Delivery Program tasks?**

Yes

15

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.2

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<p><b>5: Connected Infrastructure</b> We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable</p>	<p>5.1: Provide a safe, reliable, and accessible transport network</p>	<p>5.1.3: Active transport - pedestrians and cycleways - Deliver the actions identified in the Pedestrian Access and Mobility Plan and in the Bike Plan</p>	<p>5.1.3.2</p>	<p>Review and update 10 year Active Transport program</p>

**MAYORAL MINUTE**

**Mayoral Minute No. 10.1 Damaging increase in Emergency Services Levy costs**

5 File No: I2023/698

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I move that:

- 10 1. Council writes to the Treasurer, the Minister for Emergency Services, the  
Minister for Local Government and local State Member(s):
- 15 a) Expressing Council's strong opposition to the NSW Government's last  
minute decision to impose an enormous Emergency Services Levy (ESL)  
cost increase on councils for 2023/24 by scrapping the ESL subsidy for  
councils and at a time after Council has publicly advertised its  
Operational Plan and annual budget to the community;
- 20 b) Noting that as a consequence of the unannounced 73% increase in the  
State Emergency Service budget and an 18% increase in the Fire and  
Rescue NSW budget, Council's 4.6% rate increase to provide essential  
community services and infrastructure has been significantly eroded.
- c) Advising that the Government's decision will lead to a reduction in  
important local services and the deferral or cancellation of necessary  
infrastructure projects;
- 25 d) Calling on the NSW Government to take immediate action to:
- i. restore the ESL subsidy in 2023/24
- ii. urgently introduce legislation to decouple the ESL from the rate peg  
to enable councils to recover the full cost as a defined levy or charge
- 30 iii. develop a fairer, more transparent and financially sustainable method  
of funding critically important emergency services, in consultation  
with local government
2. Council writes to the Chair of the Independent Pricing and Regulatory Tribunal  
(IPART) advising that Council's forced emergency services contribution is  
manifestly disproportionate to the 2023/24 rate cap, which has resulted in  
additional financial stress.



**3. Council writes to the President of LGNSW seeking the Association's ongoing advocacy to bring about a relief in the burden of Councils' emergency services contribution.**

5

### **Background Notes:**

I am calling on Councillors to support representations to the NSW Government in response to the highly damaging increase in the Emergency Services Levy (ESL) imposed on all Councils without warning for the 2023/24 financial year.

- 10 The ESL is a cost imposed on Councils and insurance policy holders to fund the emergency services budget in NSW. The majority is paid as part of insurance premiums, with a further 11.7 per cent funded by Councils and 14.6% by the NSW Government. The ESL represents cost shifting at its worse, as it is imposed on Councils without any mechanism for Councils to recover costs.
- 15 The levy increase for the State's 128 Councils in 2023/24 amounts to almost \$77 million, with the total cost imposed on the local government sector increasing from \$143 million in the current financial year to \$219 million next year. This represents a 53.1% increase, completely dwarfing the IPART baseline rate peg of 3.7% for 2023/24, and Council's rate increase of 4.6%.
- 20 Reporting suggests that the increase in costs this year reflects a 73% increase in the State Emergency Service budget and an 18.5% funding increase to Fire and Rescue NSW. The impact of these large increases on Councils' finances will be particularly severe in 2023/24 as a result of the NSW Government deciding to scrap the subsidy for Council ESL payments.
- 25 There can be no justification for passing on this cost to Councils. We have no means of recovering it or passing it on without increasing rates. Does the NSW Government expect all Councils to put in a special rate variation to cover this cost? This should be covered by general revenue of the State, as this benefits all citizens. Imposing the cost on to Councils without appropriate reimbursement is wilfully putting Councils in financial hardship without
- 30 any justification or rationale.

For many Councils, the unexpected cost hit will absorb almost all of their IPART- approved rate rise for this year and in some cases absorb more than 100%. This is placing local government budgets under enormous pressure as they struggle from the combined impact of the pandemic, extreme weather events, high inflation and wage increases.

- 35 IPART- approved rate rises are intended to compensate for the impacts of inflation and increases in Council costs. Instead, the rate increase will have to be largely diverted to the significantly higher ESL payments this year. NSW Councils will have no option other than to make cuts to infrastructure and services expenditure.

- 40 For Council, the ESL has increased by \$229,802 for 2023/24, bringing the total Council contribution to \$615,572 (this includes the removal of the ESL subsidy previously provided

# BYRON SHIRE COUNCIL

## MAYORAL MINUTE

10.1

5 by the NSW Government). This amounts to 17.50% of the expected increase in rate income for 2023/24 that has already been allocated in Council's draft 2023/2024 budget currently on public exhibition. If the NSW Government's decision is not reversed, the potential impacts on Council's services, infrastructure maintenance and delivery could include as examples:

- Reduction in road maintenance funding that is already not adequate
- Reduction in service levels for the maintenance of parks/reserves and sporting fields
- Reduction in stormwater drainage maintenance that is already not adequate.

10 The timing of this development is particularly challenging for Councils as it comes so late in the local government budgeting cycle, well after IPART's rate determination for the coming financial year.

15 All Councils strongly support a well-funded emergency services sector and the critical contribution of emergency services workers and volunteers (many of whom are Councillors and Council staff). However, it is essential that these services be supported through an equitable, transparent and sustainable funding model.

Local Government NSW has raised the serious concerns of the local government sector with the NSW Government and is seeking the support of Councils across NSW in amplifying this advocacy.

20 This Mayoral Minute recommends that Council call on the NSW Government to take immediate action to:

- a. restore the ESL subsidy,
- b. decouple the ESL from the rate peg to enable Councils to recover the full cost
- c. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services.

25 The Mayoral Minute also recommends that Council write to IPART advising of the financial sustainability impacts on of the ESL.

**Signed: Cr Michael Lyon**

STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1 Byron Music Festival - temporary suspension of alcohol restrictions Dening Park**

5

**Directorate:** General Manager  
**Report Author:** Ralph James, Legal Counsel  
**File No:** I2023/596

**Summary:**

10 The organisers of the Byron Music Festival (BMF) have applied to the Department of Planning and Environment – Crown Lands (DPE-Crown Lands) for a licence to hold part of the Byron Music Festival in Dening Park, which is part of the Crown Land Main Beach Reserve R82000.

15 The Dening Park component is proposed to occur for one day on Saturday 17 June 2023, with the licence to cover the period from Friday 16 June 2023 to Monday 19 June 2023, to allow for set up and decommissioning.

20 BMF organisers have requested that, should DPE-Crown Lands grant them a licence, Council take necessary steps to suspend any Local Government Act (the Act) Council restrictions on alcohol sales and consumption in identified parts of Dening Park during the event.

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**RECOMMENDATION:**

25 1. That Council note that the organisers of the Byron Music Festival advise that for the parts of Dening Park R82000 identified on the plan at Attachment 1, they request that alcohol be allowed to be available for sale, supply and consumption on Saturday 17 June 2023 between 11am - 8:30pm.

30 2. That subject to:  
a. the Department of Planning and Environment – Crown Lands (DPE-CL) granting a licence to BMF organisers to hold part of the Byron Music Festival on Dening Park R82000; and

35 b. the sale, supply or consumption of alcohol complying with DPE-CL licence and liquor licence requirements; then:  
any Council imposed restrictions on alcohol carrying and/or consumption affecting the:



# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.1

- i. **Byron Bay Surf Life Saving Club;**
  - ii. **area identified in Attachment 1 as ‘Lic. Area Extension 1’, adjacent to the Byron Bay Surf Life Saving Club; and**
  - iii. **area identified in Attachment 1 as ‘Lic. Area 15 x 42m’;**
- 5 **be suspended between the hours of 11am and 8:30pm on Saturday 17 June 2023.**
- 10 **3. That in the event that the DPE – Crown Lands or Liquor and Gaming NSW decline to issue a licence to BMF, or the requirements of any licences issued are inconsistent with the areas set out in Attachment 1, part 2 of this Resolution will not come into effect.**

### **Attachments:**

- 1 Byron Music Festival 2023 Dening Park alcohol outlets, E2023/42713 
  - 2 Alcohol signage relevant to Dening Park, E2023/42714 
- 15

## Report

The organisers of the Byron Music Festival (BMF) have applied to the Department of Planning and Environment – Crown Lands ('DPE-CL') for a licence to hold part of the Byron Music Festival on Denning Park, Byron Bay, which is part of Crown Reserve R82000.

- 5 The Festival is proposed to run from Wednesday 14 June to Sunday 18 June 2023 and be hosted at multiple venues throughout Byron Bay including The Beach Hotel, Byron Community Centre and The Northern Hotel, with a proposed one-day event at Denning Park, between the hours of 11am and 8:30pm on Saturday 17 June 2023.

Denning Park is Crown Reserve R82000 gazetted for the purpose of public recreation.

- 10 At its meeting on 29 September 2022 Council considered a report on a request by the Byron Music Festival to use part of this Crown Reserve 82000 (Denning Park) for a 2023 music event, being the same type of event as their 2021 Music Festival.

At that meeting Council resolved (**22-509**) that:

- 15 1. *Acknowledges the significant contribution to Byron Shire's cultural life, economy and promotion of the arts by the Byron Music Festival 2021;*
2. *Supports the Festival being held within Byron township;*
3. *Actively supports the continuance of BMF as an annual event showcasing local musicians and the local music industry;*
- 20 4. *Notes that it has no lawful power to issue a licence to Byron Music Festival for use of Denning Park but that the Crown Lands' Minister does have the power to issue licences for commercial activities*
5. *Encourages the proponents to apply directly to Crown Lands for a commercial activities licence for the 2023 Event;*
- 25 6. *Writes to the Crown Lands Minister expressing Council's support for a single event in 2023 subject to the following conditions:*
- i. *that it is for a single event in 2023;*
- ii. *the licence period not exceed 2 days;*
- iii. *the patron numbers are limited to a maximum of 3,000;*
- 30 iv. *that a dune stability assessment be undertaken by a qualified geotechnical engineer to determine that the event is not worsening conditions of the site and its surroundings;*
- v. *that this assessment be done as soon as possible and again within two to three weeks of the Festival commencement date, and*
- 35 vi. *that, after the geotechnical assessment, should the BMF event be deemed as potentially injurious to the site and surrounding areas it must not proceed on Denning Park.*

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.1

7. *Notes the short time available to produce the festival by June 2023 and actively aids and supports Byron Music Festival (BMF) to deliver by that date;*
8. *For reasons of prudent and responsible service of alcohol, supports a second bar area in front of the main stage as per the application request made in 2021 and as per the recommendation by Byron Police and Tweed/Byron Licensing, and*
9. *Intends that any future Plan of Management of Dening Park maintains the use of the Park as a community area.”*

Council emailed DPE-CL on 14 October 2022 providing a copy of Council Res **22-509** and the supporting report, in satisfaction of part 6 of the Resolution. Byron Music Festival lodged their application with DPE-CL on 16 January 2023 in satisfaction of part 5 of the Resolution.

On 24 April 2023 Byron Music Festival provided a final proposed site plan as per Attachment 1, identifying the location of the proposed liquor licensed areas and this is the first opportunity to report the matter of suspending liquor licence restrictions to Council for consideration.

Based on the site plan provided on 24 April 2023, it appears, should DPE-CL issue a land licence, BMF would require Council to take steps to suspend restrictions on alcohol sales and consumption in the identified parts of Dening Park pursuant to the provisions of the Local Government Act (the Act).

The site plan provided by Byron Music Festival, Attachment 1, identifies the following three proposed liquor licensed areas:

1. Byron Bay Surf Club (internal)
2. ‘Lic. Area Extension 1’, a licensed area outdoors and adjacent to the Surf Club
3. ‘Lic. Area 15 x 42m’, a licensed area outdoors as shown on the site plan

The proponents have indicated in their application to Crown Lands that alcohol will only be available for sale and supply within the confines of the licensed areas and that no alcohol will be permitted to leave the licensed areas. This report has been prepared based on the information supplied by the proponents.

Current alcohol restriction signage relating to Dening Park on R82000 is shown in Attachment 2. The usual practice is that the permanent signage remains in situ during any period of temporary suspension of alcohol restrictions.

A separate report to Council to address a request received from Byron Music Festival for a variation to resolution **22-509** is included in this meeting’s agenda.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>5: Connected Infrastructure</b> We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.4: Sporting facilities and swimming pools - Ensure ongoing maintenance and upgrade of inclusive sporting facilities and swimming pools	5.4.4.4	Maintain each of the Council owned parks, reserves, and sports fields to agreed level of service

### Recent Resolutions

- 29 September 2022 Council resolution **22-509** – provided above.

## 5 Legal/Statutory/Policy Considerations

### Alcohol Prohibited Areas (APA)

Section 632A(4) of the Act enables Councils to declare any ‘public place’ or part of a place to be an APA, except for those places (public roads, footpaths and car parks) which are to be dealt with under the Alcohol-Fee Zone provisions of the Act.

10

Under the Act, a **public place** means:

- (a) a public reserve, public bathing reserve, public baths or public swimming pool, or
- (b) a public road, public bridge, public wharf or public road-ferry, or
- (c) a Crown reserve comprising land reserved for future public requirements, or

15

(d) public land or Crown land that is not:

- (i) a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c)), or
- (ii) a common, or
- (iii) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or

20

- (iv) land that has been sold or leased or lawfully contracted to be sold or leased, or
- (e) land that is declared by the regulations to be a public place for the purposes of this definition.

**Public land** means:

any land (including a public reserve) vested in or under the control of the council, but does not include:

- 5 (a) a public road, or  
(b) land to which the Crown Lands Act 2016 applies, or  
(c) a common, or  
(d) a regional park under the *National Parks and Wildlife Act 1974*.

10 The *Local Government Amendment (Confiscation of Alcohol) Act 2010* provides the power to Police and to authorised Council enforcement officers to confiscate and tip out alcohol in the possession of a person who is in an area where alcohol consumption is prohibited by a notice under section 632A of the *Local Government Act 1993* ("the Act").

15 The part of Lot 18 DP 1269368, being the area known as Denning Park, is 'public land' being Crown land which is a Crown reserve, under the control of the Council, that is a public place because it is land to which the Crown Lands Act 1989 applies.

20 Public land may be declared alcohol prohibited at all times or only for specific days, times or events. All of the public place may be declared or part of the public place.

### **Financial Considerations**

Only financial impost on Council in relation to suspension of alcohol restrictions is the staff time in writing this report.

### **25 Consultation and Engagement**

Information provided by Byron Music Festival proponents by email on 24 April 2023, including the site map at Attachment 1, was relied upon to prepare this report.



STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.2 PLANNING - Development Application No. 10.2022.367.1 - Use of studio including alterations and additions - 4/133-141 Broken Head Road Suffolk Park**

5

**Directorate:** Sustainable Environment and Economy

**Report Author:** Lachlan Wall, Gateway Planner

**File No:** I2023/541

10 **Proposal:**

**DA No:** 10.2022.367.1

**Proposal description:** Use of studio including alterations and additions.

**Property description:** LOT: 4 DP: 286421  
4/133-141 Broken Head Road SUFFOLK PARK

**Parcel No/s:** 241883

**Applicant:** Mr D R Cope

**Owner:** Mr N & Mrs S M Wasley

**Zoning:** R2 Low Density Residential

**Date received:** 23 August 2022

**Integrated / Designated Development:**  Integrated  Designated  Not applicable

**Concurrence required:** No

**Public notification or exhibition:** – Level 2 advertising under Council’s Community Participation Plan.  
– Exhibition period: 14 February to 27 February 2023

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

- Submissions received: 1
- Submissions acknowledged:  Yes    No    N/A

**Variation request to Development Standards under an EPI (e.g. clause 4.6)**      Clause 4.6

**Estimated cost**      \$42,500.00

**Delegation to determine**      Council

**Issues**      35% variation to Clause 4.4 Floor Space Ratio, of the Byron Local Environmental Plan 2014.  
Unauthorised conversion of a shed to a studio.

**BCA Classification required**       Yes - BCA Classification – 1a

### Summary:

5 This Development Application seeks approval for the Use of studio including alterations and additions at 4/133-141 Broken Head Road, Suffolk Park. The subject site is part of a community title subdivision containing five (5) residential lots. The application seeks to retain the works as built to permit the use of the structure as a studio for the purposes as a home office.

10 The subject property is zoned R2 Low Density Residential under the Byron Local Environmental Plan 2014 and generally complies with the relevant planning controls, however the application seeks to vary clause 4.4 floor space ratio pursuant to clause 4.6. The application seeks to increase the floor space ratio of the site to 0.27:1. The applicable Floor Space Ratio control for this site is 0.20:1. This results in a 35% variation to the control. As the variation is greater than 10% the application is to be determined by Council.

15 The application was notified and advertised for a period of 14 days between 14 February to 27 February 2023 and one (1) objection was received, raising issues about the fire safety of the existing dwelling and the alleged use of multiple dwellings on the property.

Subject to recommended conditions, and other site-specific matters such as bushfire, the application is able to be recommended for approval subject to a deferred commencement consent.

NOTE TO COUNCILLORS:

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

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:**

1. **Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2022.367.1 for the Use of studio and alterations and additions to existing studio including a variation to clause 4.4 Floor Space Ratio, be granted consent subject to the conditions of approval in Attachment 1 (E2023/36504).**
- 15 2. **The determination of this Development Application and potential non-compliances within the existing dwelling are to be brought to the attention of Council's Enforcement Team.**

### **Attachments:**

20

- 1 10.2022.367.1 Recommended Conditions of consent, E2023/36504 
- 2 10.2022.367.1 Plans, E2023/31108 
- 3 Confidential - 10.2022.367.1 Submissions, E2023/36506
- 4 Confidential - 10.2022.367.1 Additional images of studio internals, E2023/38473

25

# BYRON SHIRE COUNCIL

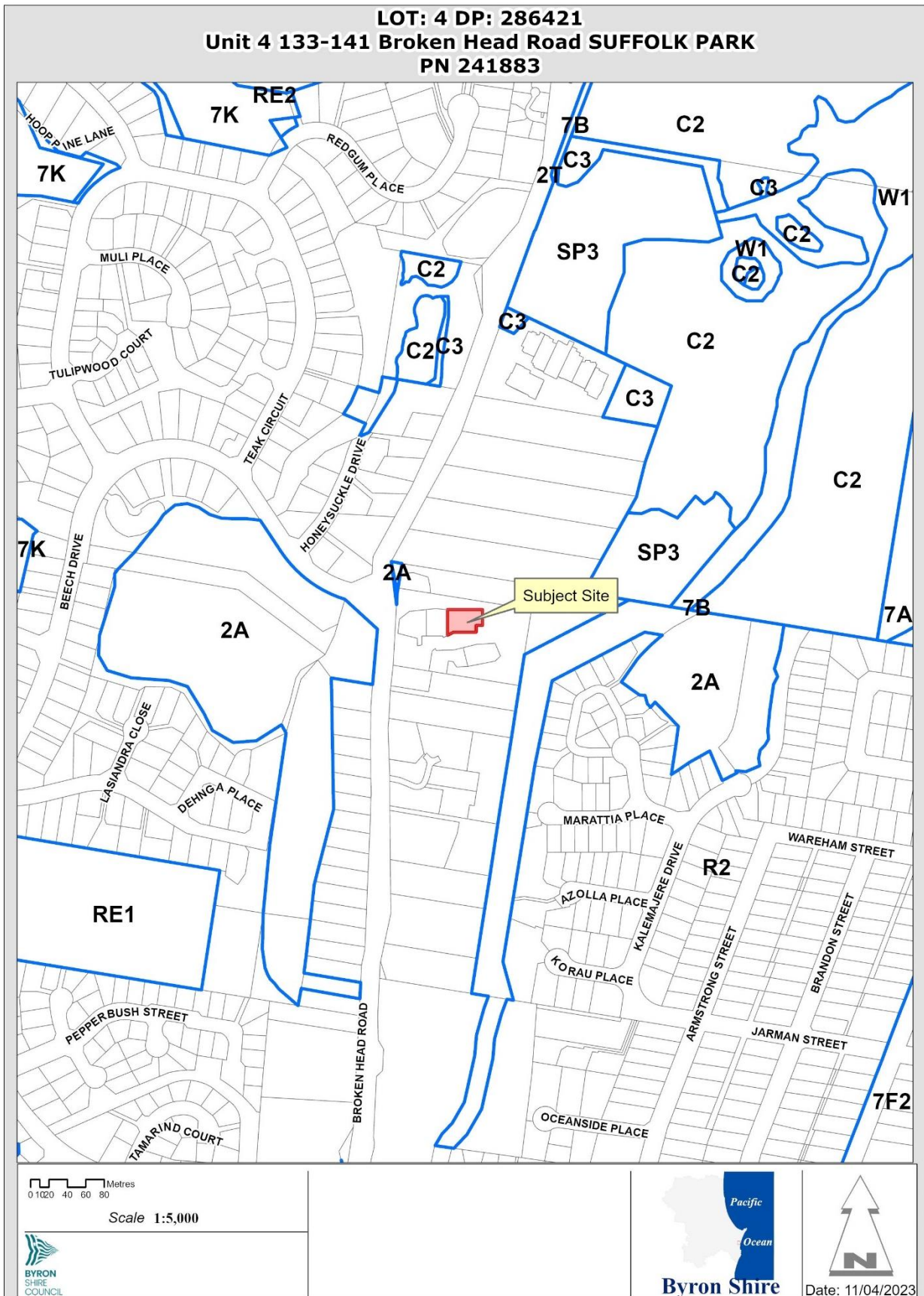


Figure 1 Locality plan of property

**Assessment:**

**INTRODUCTION**

**History/Background**

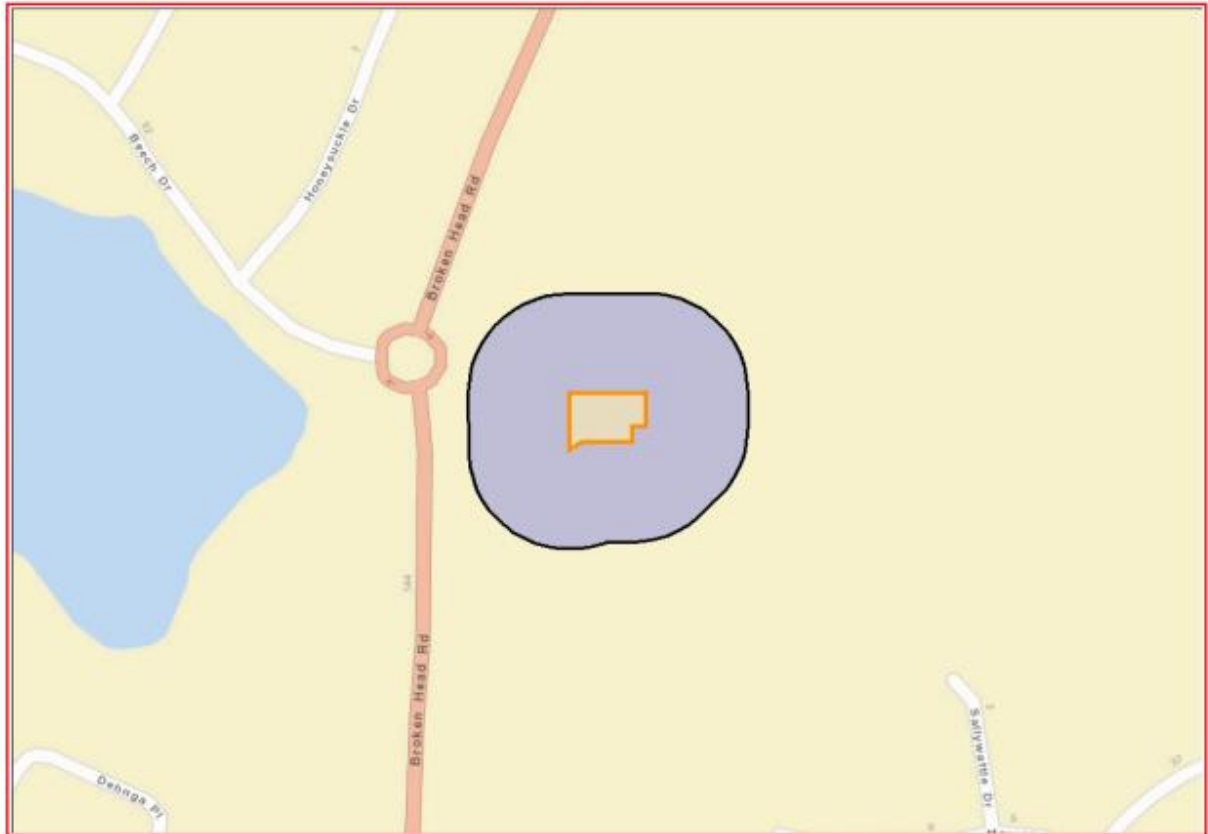
Development History of property.

DA Number	Description	Status	Date determined
10.2008.332.1	5 lot Community Title Subdivision – 5 lots	Approved	26/02/2009
10.2016.120.1	Dwelling house, attached double garage and detached carport/shed	Approved	25/05/2016

- 5 This application was lodged as a response to an investigation by Council's Compliance Team. Following The investigation by the Compliance Team, a notice of proposed order was issued on 20 June 2022 for the restoration of the carport / shed to the original condition as approved under Development Consent 10.2016.120.1.
- 10 A restore works order was issued to the property owner on 27/07/2022, Council reference 75.2022.47.2. The outcome of this compliance action and the accompanying order is pending the determination of Development Application 10.2022.367.1

AHIMS Web Service search for the following area at Lot : 4, DP:DP286421, Section : - with a Buffer of 50 meters, conducted by Lachlan Wall on 06 April 2023.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

<b>0</b>	<b>Aboriginal sites are recorded in or near the above location.</b>
<b>0</b>	<b>Aboriginal places have been declared in or near the above location. *</b>

**Figure 2: AHIMS search results conducted 6 April 2023**

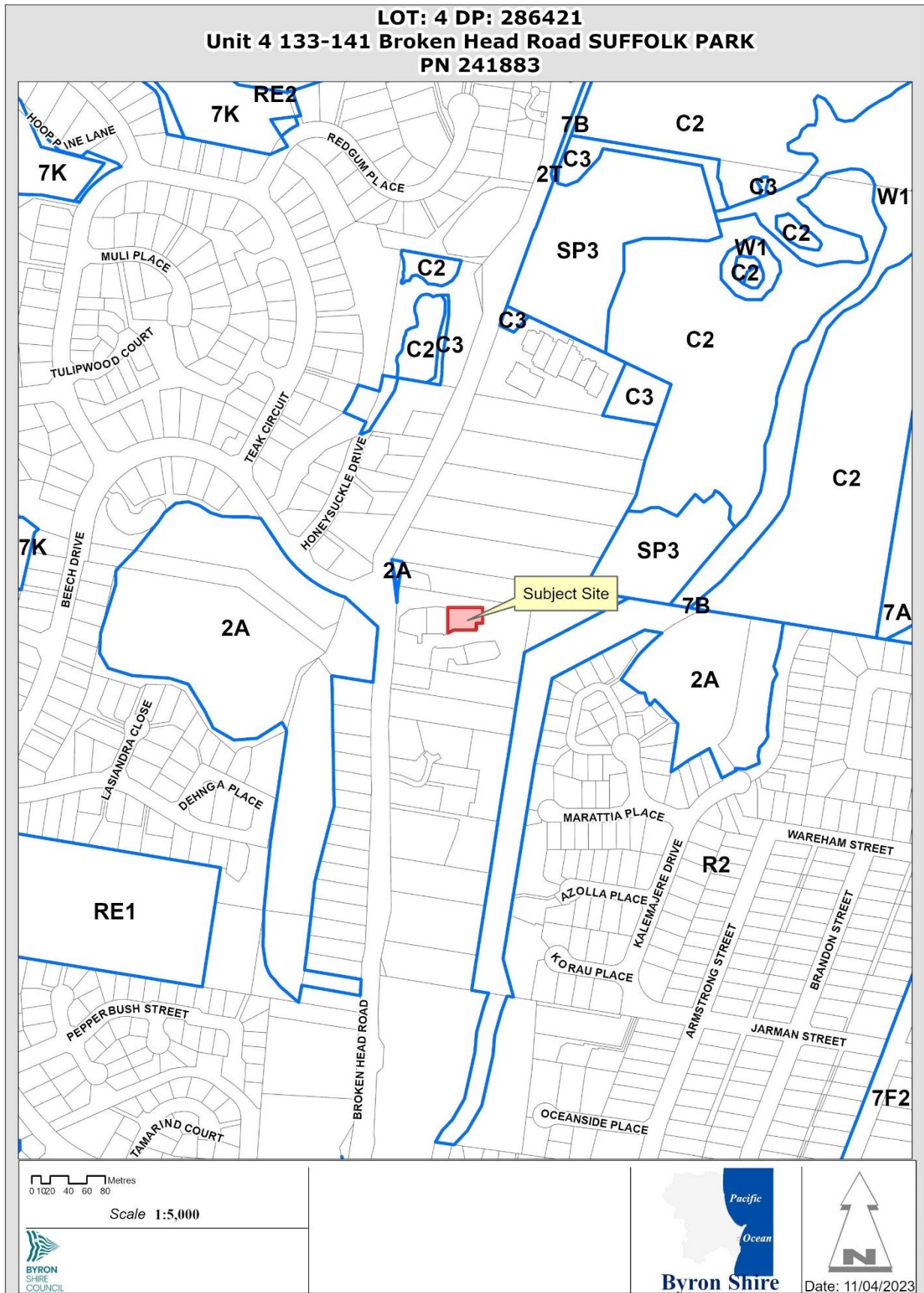
AHIMS search results conducted 6 April 2023 indicating that no Aboriginal sites or places have been recorded on, or within a 50m buffer area of the subject site.

5

The works that are the subject of this development application have generally been undertaken within the footprint of the existing shed and carport on the site which were approved by the development consent 10.2016.120.1, except for the new bathroom addition to the northern elevation of the studio structure, and the fencing around the laundry area within the carport.

10

# BYRON SHIRE COUNCIL



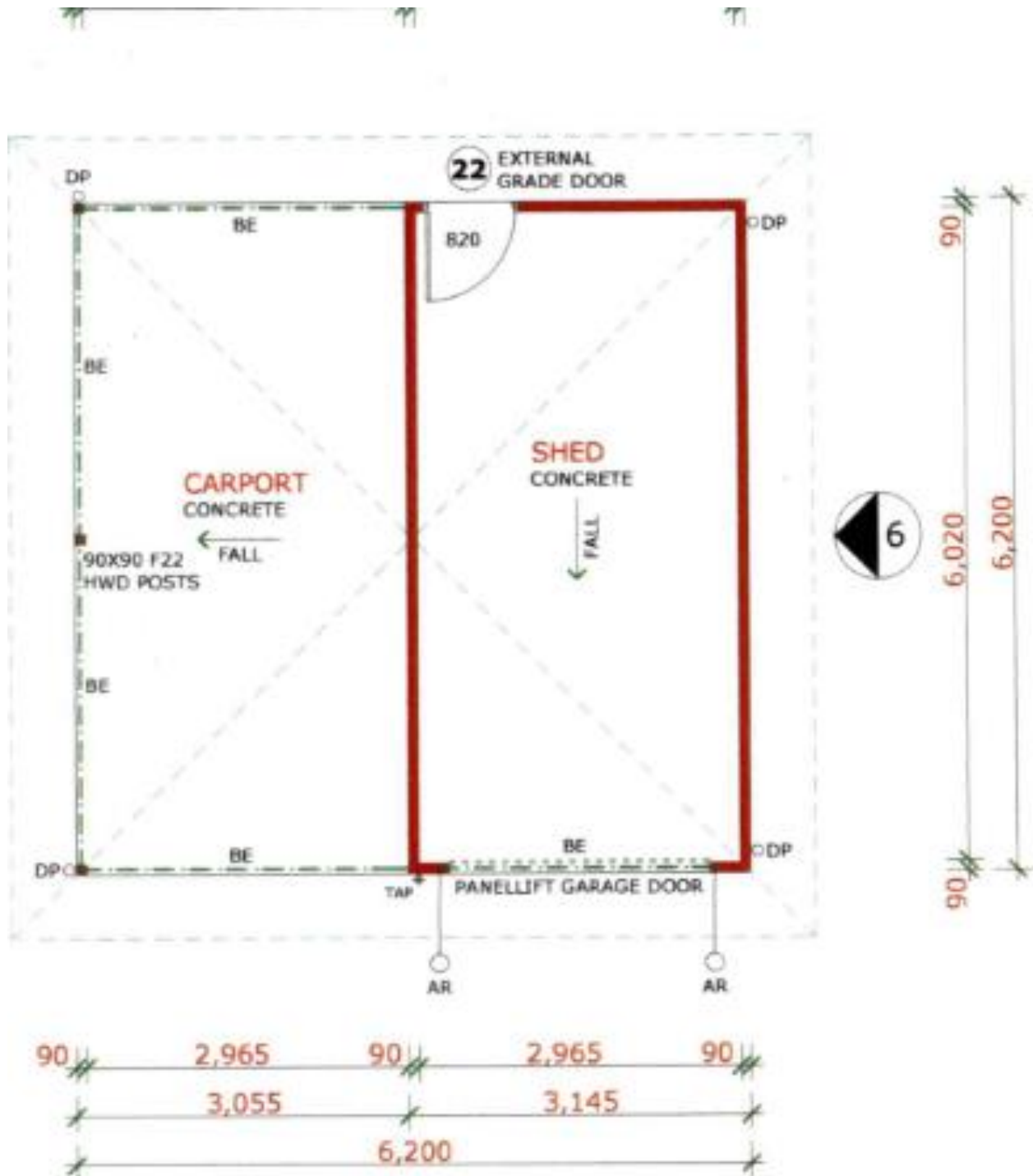


Figure 3 Extract from the approved plans of Development consent 10.2016.120.1 showing the approved floor plan of the shed and carport structure.

### Description of the proposed development

- 5 This application seeks approval for Use of studio including alterations and additions.

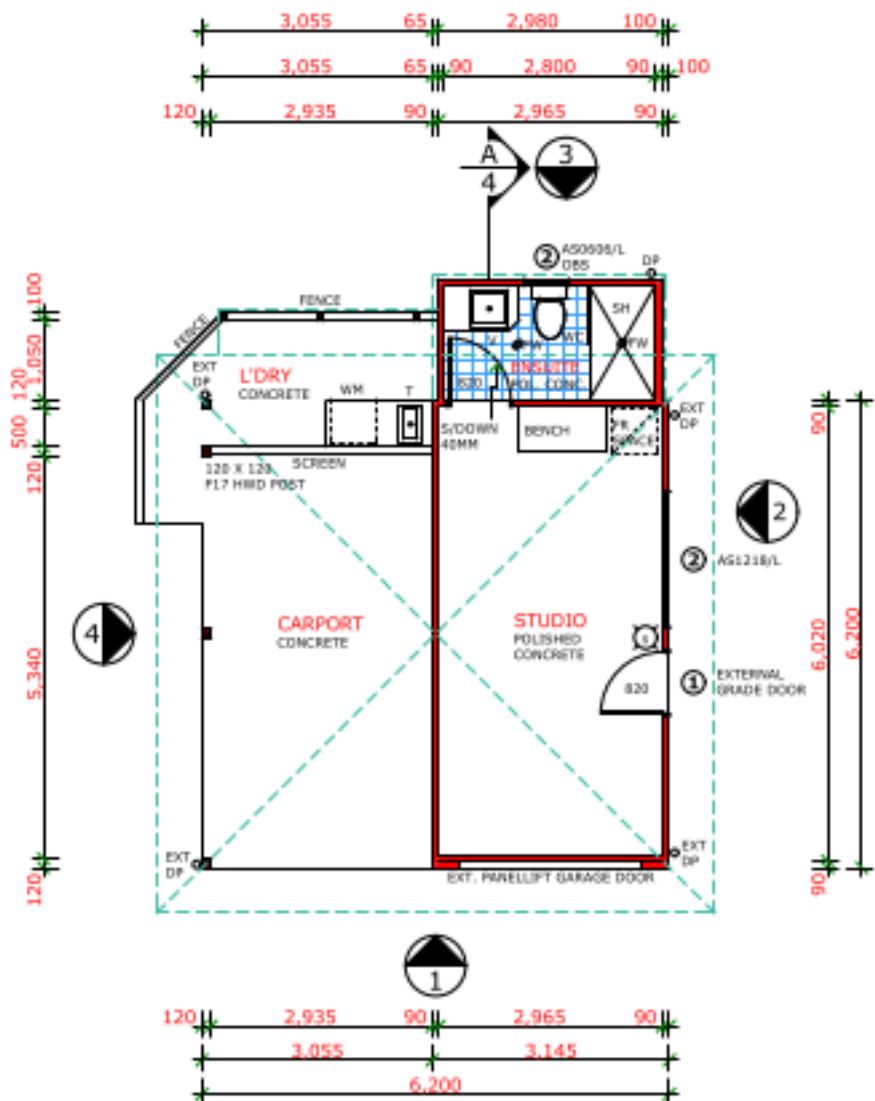


The studio has been constructed within the existing footprint and structure of an approved shed. This studio contains a bench and fridge space.

The alterations and additions undertaken have created a bathroom to the north of the studio structure. The plans also propose the addition of an outdoor laundry space behind the carport.

5

The development increases the Gross Floor Area (GFA) of the dwelling to 0.27:1. The Floor Space Ratio map for this site permits a maximum Floor space ratio (FSR) of 0.20:1. This application includes a request to vary this development standard.



10

Figure 4 As built floor plan of carport and studio

## Description of the site

A site inspection was carried out on 22 March 2023

Land is legally described                      LOT: 4 DP: 286421

Property address                              4/133-141 Broken Head Road SUFFOLK PARK

Land is zoned:                                      R2 Low Density Residential

Land area is:                                      897.1 m<sup>2</sup>

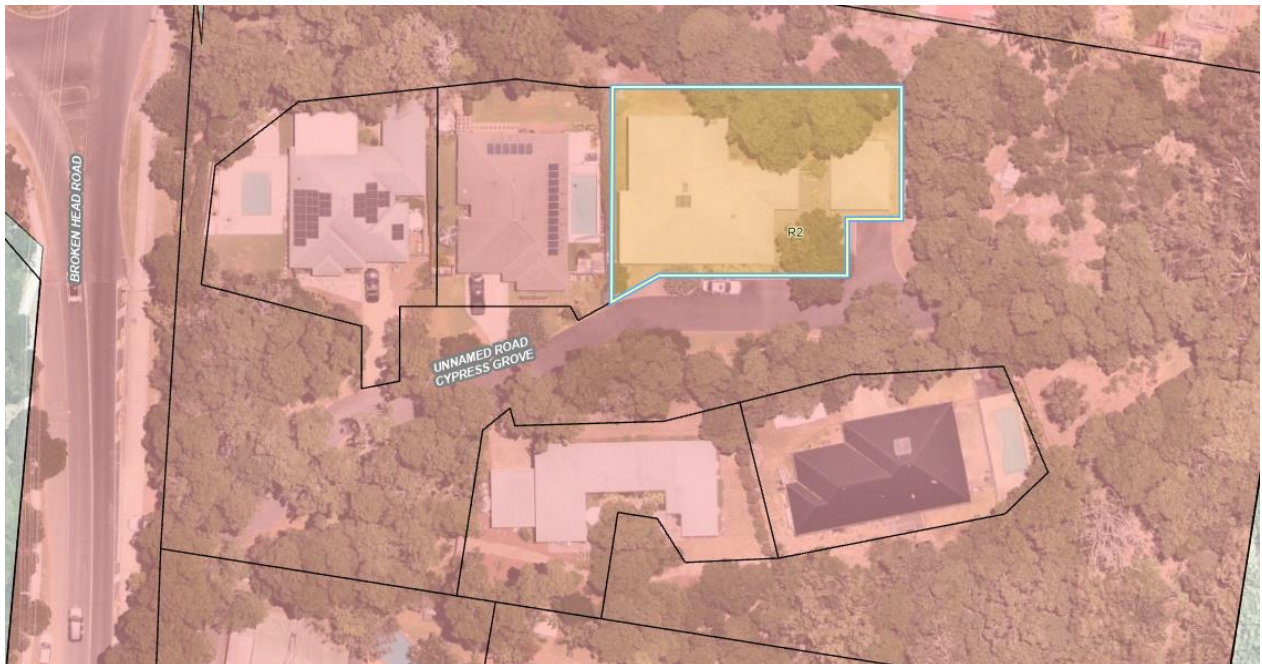
Property is constrained by:                  Bushfire prone land  
Acid Sulfate Soils Class 3  
High Environmental Value

Is a BDAR required due to the location of the proposed development?                   Yes  
 No

Are there any easements in favour of Council affecting the site?                                   Yes  
 No

Is there a Vegetation Management Plan which might affect the proposal?                   Yes  
 No

Is there a Voluntary Planning Agreement which might affect the proposal?                   Yes  
 No



**Figure 5 Zoning map, the subject site is shown in the yellow polygon. The entire site is zoned R2 Low Density Residential.**

5 The site is legally described as Lot 4 DP 286421 and is part of a community title subdivision. The site is bounded by the neighbourhood lot to the south, east and north and a residential lot to the west.

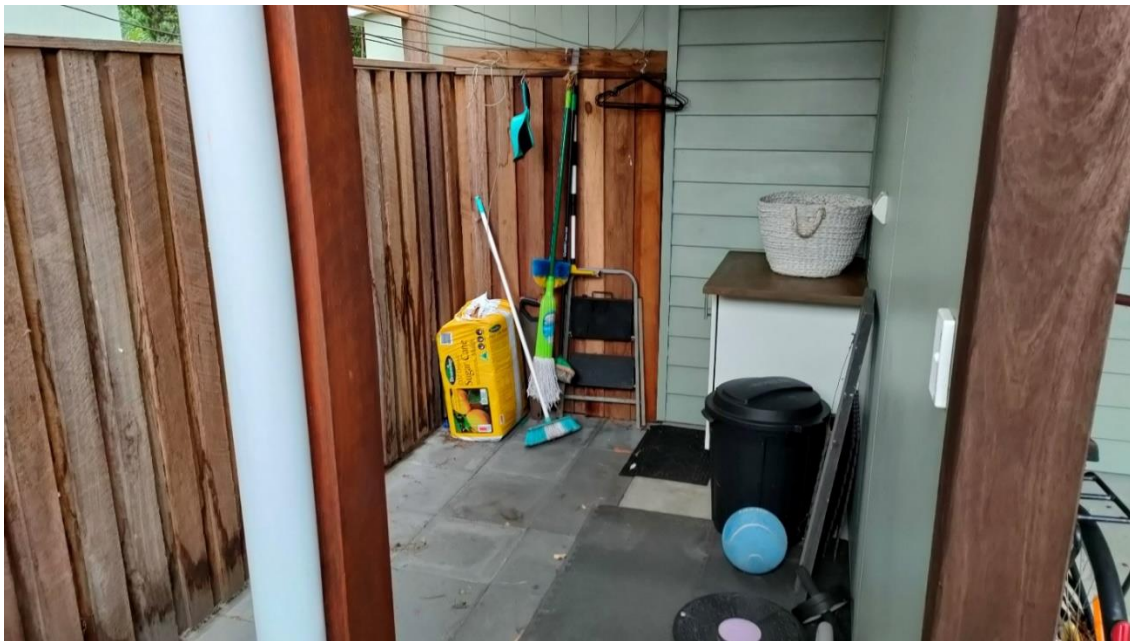
10 The property currently contains a 4-bedroom, single storey dwelling house with an attached garage. A detached carport and shed were approved as part of the development consent for the dwelling, DA 10.2016.120.1. The works that are the subject of this application are located within the detached carport and shed.

15 The site contains a number of Coastal Cypress pine trees on the site. These trees were retained as part of the Community title subdivision. The neighbourhood lot consists mostly of established vegetation including coastal cypress pines. Restoration works have occurred within the neighbourhood lot in accordance with the Biodiversity Conservation Management Plan as part of the CT Subdivision. The neighbourhood lot is also to be managed as an asset protection zone in accordance with the conditions of consent for the Subdivision approval.

As a result the development will not interfere with the vegetation within the neighbourhood lot, and any requirement of the approved biodiversity conservation management plan.



Figure 6 External view of shed converted to studio



- 5 **Figure 7 Laundry area shown on plans attached to the carport. Landowner confirmed on-site inspection that laundry fittings have already been removed as required by Council compliance action, a small bench space is retained in the corner.**

The image above shows the area sought to be used as an external secondary laundry on the plans submitted. This laundry facility is not supported.

## SUMMARY OF REFERRALS

Referral	Issue
Building Surveyor	No objections subject to conditions.

5 **Issues:**

**Potential non-compliances with approved plan within existing dwelling**

10 A site inspection was undertaken on 22 March 2023 and the studio and games room were inspected. It was found that the games room within the dwelling had a kitchenette that appeared to be larger than the 'bar' that was approved in the original consent. Photos provided within this report. There was no cooktop or oven in this kitchenette, however it could likely be utilised for the preparation of food and enable this section of the dwelling to be used as a separate dwelling.

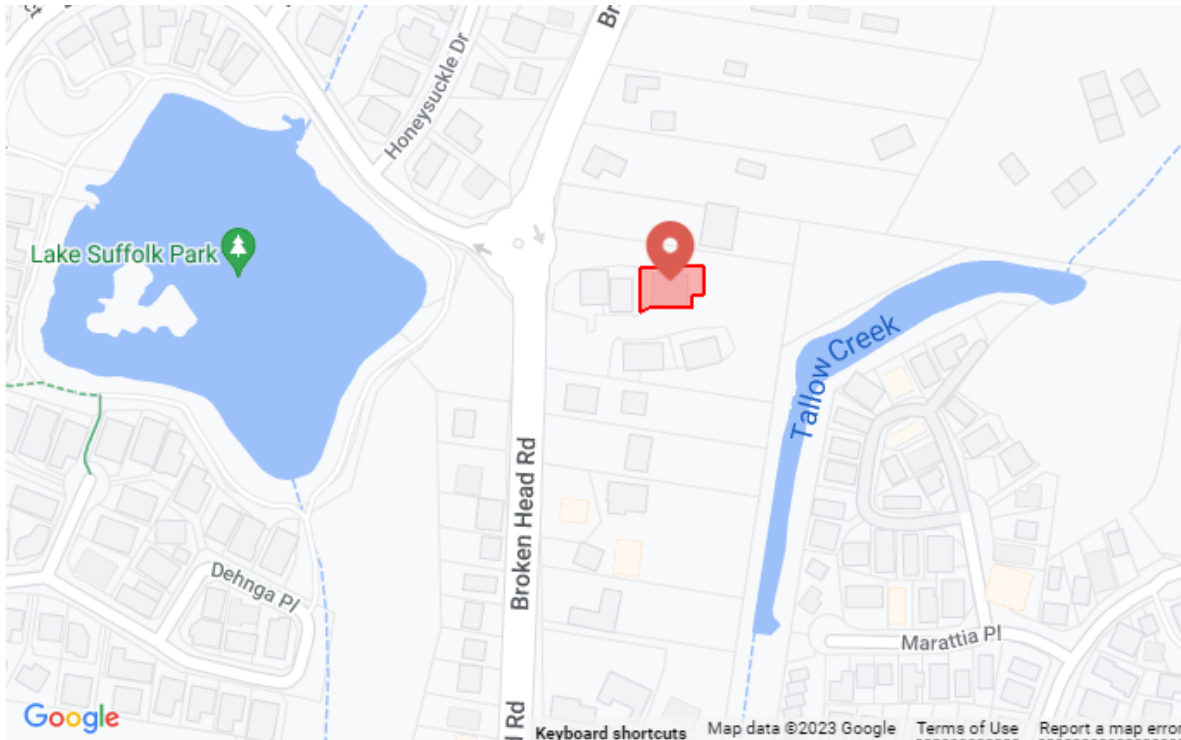
15 As no works to the existing dwelling are proposed as part of this development application there is no nexus to require any works to rectify this. This is to be brought to the attention of Council's Compliance Team.

## SECTION 4.14 – BUSH FIRE PRONE LAND

20 Under section 4.14 of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land, that the development complies with the document '*Planning for Bush Fire Protection 2019*'. The site is bush fire prone land. The development application is accompanied by a Report by Bushfire Certifiers dated 22 December 2022. A Condition is included in the Recommendation of this Report requiring that the development must comply at all times with the requirements of Report by Bushfire Certifiers dated 22 December 2022.

**Effect of 10/50 rule on significant vegetation.**

25 The site is located within a 10/50 area however is excluded from utilising the code as the land is within 100m of the coastline or estuaries of New South Wales. A copy of this search is shown below.



**Your 10/50 search result**

You have conducted a search of the 10/50 online tool for the land identified in the map above. This search result is valid for the date the search was conducted.

Please retain a copy of this search result for your records.



The parcel of land you have selected is located in a designated 10/50 vegetation entitlement clearing area. However, you cannot use the 10/50 exemption to clear vegetation on this parcel of land. This land is excluded from the operation of the 10/50 Code as it has been identified as being wholly or partially within:

- › • 100 metres of the coastline or estuaries of New South Wales

**Figure 8 10/50 code search results**

5 Significant vegetation exists on the site comprising the coastal cypress trees. this vegetation has already been approved for removal, with the environmental considerations of the tree removal works considered during the previous development consents issued on the site. Should the applicability of the code change in the future, it will not cause further ecological impacts as a result.

10 **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.

## State Environmental Planning Policies (SEPP)

### *Resilience and Hazards SEPP 2021*

#### Chapter 2 Coastal Management

5 The site is mapped within the Coastal Environment Area and Coastal Use Area. The site is not located within mapped coastal wetland or littoral rainforests, or within the buffer to wetlands or rainforests.

The development is for internal use of an existing approved shed with the addition of a bathroom. It is unlikely that this development will have an adverse impact on coastal processes or the environment.

10 It is considered that the works as built do not offend the requirements of Sections 2.10 and 2.11 of this policy and is consistent with the objectives of these sections.

#### Chapter 4 Remediation of land

15 A contaminated land assessment was provided and assessed as part of the subdivision of the land. This investigation that found the site is not contaminated. No further investigation is required.

### *Transport and Infrastructure SEPP 2021*

#### Division 17 Roads and Traffic

20 Broken Head Road is a classified road with the Community Title subdivision having existing access to Broken Head Road. There is no change to the existing access arrangement. The works as built do not increase vehicular traffic utilising this access.

## Byron Local Environmental Plan 2014 (LEP 2014)

LEP 2014 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.

25 In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:

- (a) The proposed development is defined in the LEP 2014 Dictionary as studio ancillary to a dwelling;
- (b) The land is within the R2 Low Density Residential according to the Land Zoning Map;
- (c) The proposed development is permitted with consent; and
- 30 (d) Regard is had for the Zone Objectives as follows:

<b>Zone Objective</b>	<b>Consideration</b>
<ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a low-density residential environment.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>	<p>A studio is an ancillary use to the dwelling house, and will provide for the needs of the residents.</p>

**4.3 Height of buildings**

The studio has a maximum height of 4.3m.

The development complies with this clause.

**6.1 Acid sulfate soils**

- 5 The site is mapped as Class 3 Acid Sulfate Soils which requires further considerations for work more than 1 metre below the natural ground surface. All buildings works have been completed and no further consideration of this clause is required.

**6.2 Earthworks**

- 10 All buildings works have been completed and no further consideration of this clause is required.

**6.6 Essential services**

The site has access to all required services.

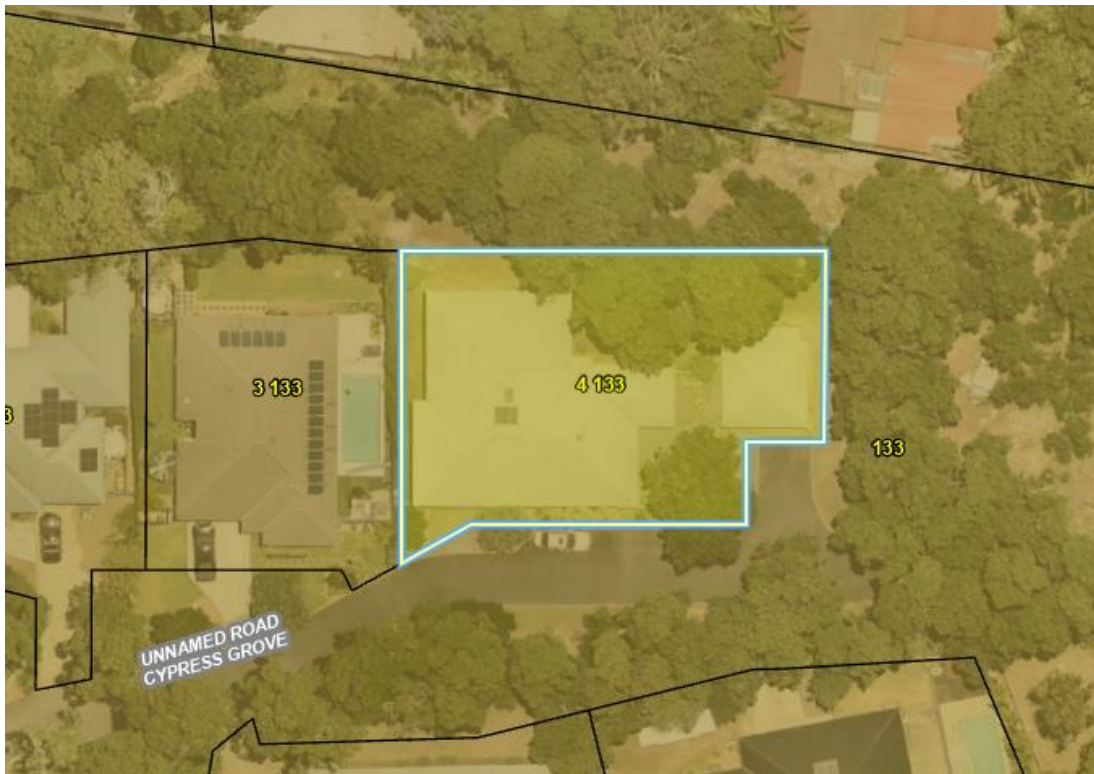
- 15 The proposed development complies with all of these clauses (in some cases subject to conditions and/or to the satisfaction of other assessing officers), except in relation to Clause 4.4 Floor Space Ratio which is considered further as follows:

**4.4 Floor Space Ratio**

- 20 As part of the C-Zones review process the site was rezoned to R2 Low Density Residential Zone. Before this change the site was zoned 2A Residential Zone under the Byron Local Environmental Plan 1988. Prior to this change, the site had an FSR of 0.5:1 per clause 14 of the Byron LEP 1988, noting that this was not a development standard, only a control under the Byron Development Control Plan 2010. The 0.2:1 FSR was applied to this area due to environmental sensitivity including the coastal cypress pines of the locality.

- 25 A floor space ratio (FSR) of 0.20:1 applies to the site.





**Figure 9 Floor space ratio map and legend, subject site shown in yellow polygon.**

5 The floor area of the dwelling and studio is shown in figure 9 below. With the Existing dwelling containing 224.3m<sup>2</sup> of floor area, and the studio containing 21.8m<sup>2</sup>

The development has a Gross Floor Area of 246.1m<sup>2</sup>.  
The site has an area of 897m<sup>2</sup>.

The resulting Floor Space Ratio is 0.274:1, when rounded to 2 significant figures the FSR = 0.27:1.

10 This results in a 35% variation to the development standard. The application seeks a variation to this development standard under clause 4.6 of the Byron LEP 2014.



## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

- 5       • The Floor Space Ratio development standard in the Broken Head Road area within Suffolk Park was reduced from 0.5:1 to 0.2:1 due to the environmental sensitivity of the area. For this site, this sensitivity is a result of the existing Coastal Cypress *Callitris columellaris* vegetation on the site. The Bushfire threat assessment  
10       provided indicates that the entire site is to be managed as an APZ. The previous development consent for the dwelling, which included the shed structure, prior to the conversion to a studio, also requires the maintenance of the entire site as an APZ. As a result the works as built do not create any further impacts on the Coastal Cypress community on the site that has not previously been considered. It is noted  
15       that these trees have not been removed contrary to previous conditions of development consent, however these trees could be removed by complying with that condition without further consent being issued.
- The existing dwelling house, excluding the studio floor area already exceeds the 0.20:1 Floor Space Ratio control at 0.25:1.
- 15       • Use of the shed as a studio will not result in any adverse environmental or amenity impacts.
- Despite the 35% variation to the standard, the new floor area is 21.8m<sup>2</sup>.

20       Further the proposal is in the public interest having regards to the objectives of the development standard as follows:

- (a) to ensure that new buildings are appropriate in relation to the character, amenity and environment of the locality,

25       The additional building footprint is a bathroom addition attached to the approved shed. The use of the shed as a home office studio is not likely to result in any adverse impacts to the amenity, character or environment of the local area.

- (b) to enable a diversity of housing types by encouraging low scale medium density housing in suitable locations,

30       The works as built do not change the style of housing provided on the site. It remains a single dwelling within a community title subdivision. The dwelling, including the shed which has been converted to a studio was approved under consent 10.2016.120.1. The studio will provide an ancillary home office space for the residents of the existing dwelling without  
35       impacting the ongoing use of the dwelling.

- (c) to provide floor space in the business and industrial zones adequate for the foreseeable future,

40       The site is not within a business or industrial zoned land.

- (d) to regulate density of development and generation of vehicular and pedestrian traffic,

The studio is not to be utilised as an additional dwelling and will not generate additional traffic. The dwelling maintains complying carparking areas.

- (e) to set out maximum floor space ratios for dual occupancy in certain areas

5

The application does not seek consent for a dual occupancy.

The concurrence of the Planning Secretary is not required. As the application is to be determined by the elected Councillors.

- 10 It is recommended that the development standard can be varied in this instance.
- a) The development is satisfactory having regard to the requirements outlined in clause 4.6;
  - b) The development is satisfactory having regard to applicable Department of Planning, Infrastructure and Environment Circulars;
  - 15 c) The development is satisfactory having regard to relevant caselaw;
  - d) The DA demonstrates that compliance with the development standard is unreasonable;
  - e) The DA demonstrates that there are sufficient environmental planning grounds to justify contravening the standard;
  - 20 f) The DA demonstrates that that the development is in the public interest;
  - g) The DA demonstrates that the development is consistent with the objectives of the standard and the zone;
  - h) The DA demonstrates how the development produces a better planning outcome than one that strictly complied with the development standard; and
  - 25 i) The DA demonstrates that there is no new environmental impact, and the variation can be justified on this site for this particular application.

It is recommended that the development standard can be varied in this instance and that compliance with the development standard is unreasonable and unnecessary having regard to the circumstances of the case.

- 30 However if the council is not supportive of the variation, the previously issued restore works order will be reinstated and the effect of the previously issued restore works order will need to be carried out.

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

- 35 Council in October 2022 resolved **22-555** to consider an amendment to Byron LEP 2014 to investigate the FSR applying to sites along Broken Head Road. The report recommended that the applying FSR of 0.2:1 be increased to 0.3:1. A planning proposal to this effect is currently being prepared.

## Byron Shire Development Control Plan 2014 (DCP 2014)

DCP 2014 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 land to which LEP 2014 applies.

- 5 The proposed development complies with all sections of these Parts/Chapters (in some cases subject to conditions and/or to the satisfaction of other assessing officers), except in relation to certain prescriptive measures which are considered further (having regard to the DCP 2014 Section A1 Dual Path Assessment) as follows:

### **B1 Biodiversity:**

- 10 The site, particularly the neighbourhood lot is mapped as HEV vegetation and contains coastal cypress pines. The site has three established clumps of cypress pines with two located behind the studio with the closest approximately 4m away from the ensuite addition to the studio. No vegetation is required to be removed to facilitate the ensuite addition or change of use of the shed to a studio. The site is currently excluded from the
- 15 RFS 10/50 clearing code.

A condition is recommended to ensure that the 10/50 code is not utilised to remove the coastal cypress pines and that no tree removal is approved as part of this DA.

### **D1.12 Studios:**

- 20 Only one studio is permitted for each dwelling. The studio must:
- a) be situated on the same lot as the dwelling;  
Complies
  - b) not exceed 60m<sup>2</sup> gross floor area;  
Complies
  - 25 c) Not contain internal partitions other than those necessary for ablution facilities or demonstrably required for the use of the studio (e.g. photography darkroom);  
complies
  - d) not contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food;
  - 30 The plans show a bench space approximately 1m in length and a fridge space within the studio. The studio does not contain a sink or facilities that would enable the preparation of food. A condition is recommended to ensure the studio does not contain a kitchen or other facilities that would permit the preparation of food.
  - e) not be used for separate habitation;
  - 35 The studio does not contain facilities that would enable it to be used for separate habitation. However, a condition is recommended to restrict the use of the studio for non-habitation and clarify the laundry is not approved as part of this consent.

- f) be located not more than 40 metres from the main building of the dwelling;  
Complies, the studio is 8m from the wall of the existing dwelling.

**E1.3.1 Character, Bulk and Scale of Development – Suffolk Park:**

- 5 The application maintains the existing development footprint with the exception of the ensuite addition. It is considered the use of the shed as a studio will not have an adverse impact on the existing character, bulk or scale of the locality.

**E1.3.4 Development in the Native Cypress Pine community:**

- 10 The development does not adversely impact the native cypress pine community. It is noted that coastal cypress pines exist on the property, however these were required to be removed as part of the subdivision and dwelling house construction.

- 15 As a result of the existing conditions of consent that apply to the subdivision and the dwelling house consents, the existing trees on the property have already been considered in terms of ecological / environmental impacts when issuing those consents and no further requirement of consideration is necessary.

The proposed development is demonstrated to meet the relevant Objectives of DCP 2014.

**Environmental Planning and Assessment Regulation 2021 considerations**

	<b>Applicable to the proposal:</b>	<b>Considered the control as it relates to the proposal:</b>	<b>If this control is applicable, does the proposal comply?</b>
Section 61 - Additional matters that consent authority must consider	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Section 62 - Consideration of fire safety	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Section 64 - Consent authority may require upgrade of buildings	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 63 - Considerations for erection of temporary structures	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA

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

<b>Impact on:</b>	<b>Likely significant impact/s?</b>
<b>Natural environment</b>	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
<b>Built environment</b>	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
<b>Social Environment</b>	No. The proposal will not have a significant social impact on the locality.
<b>Economic impact</b>	No. The proposal will not have a significant economic impact on the locality.
<b>Construction Impacts</b>	The development will generate minor impacts during its construction. Conditions of consent recommended to control hours of work, builders waste, construction noise, installation of sedimentation and erosion control measures and the like to ameliorate such impacts.

**Marine Estate Management Act 2014**

5 Not Applicable to this development.

**Council Policies applicable to the proposed development?**

Building Information Certificates Policy 2020.

A building information certificate is to be required as a recommended condition of consent in accordance with this policy.

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

The site is a serviced, unconstrained property and is suitable for the proposed development.

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

The development application was publicly exhibited

There was **1** submission made on the development application.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

Key Concern	Comment
<p>The DA is misleading to the council and the owners of the properties located around house 4. I'm sure there are penalties that apply submitting false information to the council for DA approval.</p>	<p>The application has sought consent for the use of a studio and use of alterations and additions, and not for multiple dwellings as the objection claims .</p>
<p>The intended use is for three dwellings on this property. The three dwellings have already been completed and have tenants in full time.</p>	<p>The application does not seek consent for the use of three dwellings. a copy of the plan provided with the objection is below that provides the</p>
<p>A lot of 897.1m2 does not meet the legal requirement to allow three dwellings to be erected on the block. House four is on community title which also does not permit for these structures to be built. The community infrastructure such as the sewer lines are not designed for the extra two dwellings as well as car parking space for guests.</p>	<p>The objector's statement is correct in relation to the construction of multi-dwelling housing, being the 3 dwellings referenced in the objection, however this application has not sought consent for Multi-dwelling housing.</p> <p>The recommended conditions of consent will prohibit the use as a separate dwelling, or short-term holiday rental accommodation of the studio.</p> <p>Should the studio or existing dwelling be converted, or used as multiple dwellings, this would be contrary to conditions of consent and would become a compliance matter.</p>



## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

Key Concern	Comment
<p>The dividing wall between dwelling 1 and dwelling 2 is not built to fire code</p>	<p>This application only relates to the works within the studio building, no changes to the main dwelling are sought.</p> <p>No consent for multiple dwellings to be constructed within the existing dwelling has been issued. The plans indicate that the areas between dwellings 1 and 2 are not separated by a solid wall. It was noted during a site inspection that two doors were provided within this opening.</p> <p>In addition, no works to “dwelling 2” are proposed as part of this application.</p> <p>This concern is to be brought to the attention of Council’s Compliance Team to investigate.</p>
<p>The laundry behind the carport that is not approved by council clearly shows the full intended use of these additions as dwellings. The laundry facilities are intended for use by the tenants of dwelling 2 and 3.</p>	<p>Noted. This laundry within the carport structure is not supported and should be removed. A condition of consent is recommended to effect this change.</p>
<p>The owner of the house is a builder by trade and knows these additions if submitted for their true intentions would not pass council approval. This is the reason all this construction has taken place without a DA.</p>	<p>This is a statement of opinion by the objection. The application has stated that the use of the studio is for the use as a home office.</p>
<p>A new shed has been built behind dwelling 3. Will this become dwelling 4 once this DA is approved?</p>	<p>A shed may be constructed as exempt development however this has not been further assessed as the shed referenced in the objection is not part of this application.</p>
<p>Dwelling 2 has been let out for the past four plus years.</p>	<p>No works to “dwelling 2” are proposed as part of this application. This concern is to be brought to the attention of Council’s Compliance Team, however.</p>

Key Concern	Comment
<p>My expectations are that the council will order the property to be returned to its original DA approval with all plumbing removed from laundry and dwelling 3 area along with the concrete so it can not be refitted.</p>	<p>A condition is recommended that requires the removal of the laundry facility within the carport area to prevent the separate habitation of the studio structure.</p> <p>Ablution facilities, i.e. bathrooms and the like are permitted within studios in accordance with the DCP 2014.</p> <p>The DA is to be determined by Council. If the Council is of the mind to refuse the application, then the existing order issued on the property to restore works would be consistent with the objector's request. Alternatively if the application is approved, the recommended conditions of consent would not permit the separate habitation of the studio, or use as a short-term rental accommodation.</p>

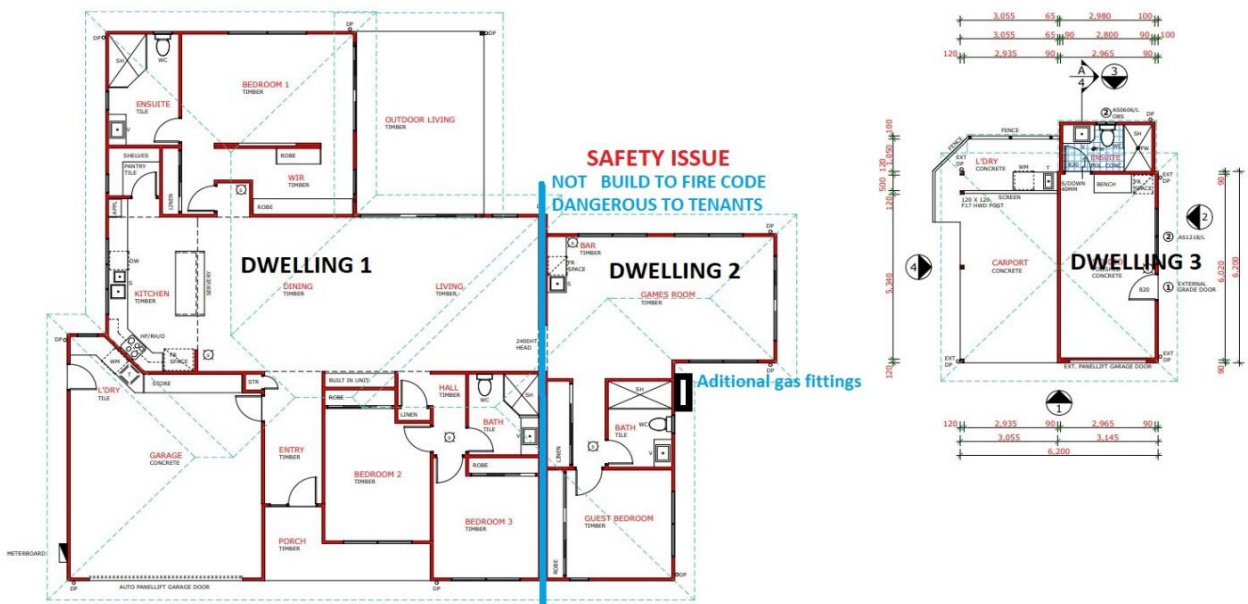


Figure 11: Plan annotated by the objector and included with the objection, showing the alleged 3 dwellings as referenced as dwelling 1, 2 and 3.

**Public Interest**

The proposed development is unlikely to prejudice or compromise the public interest or create an undesirable precedent.

**DEVELOPER CONTRIBUTIONS**

5 **Water & Sewer Levies**

No Section 64 levies will be required.

**Developer Contributions**

No Developer Contributions will be required.

**DISCLOSURE OF POLITICAL DONATIONS AND GIFTS**

Disclosure details	Response
Has a Disclosure Statement been received in relation to this application? If Yes, Provide Disclosure Statement register reference: 91.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

**Report No. 13.3 Place Planning Collective Expression of Interest: Selection of Federal Representatives**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Kristie Hughes, Natural Disaster Policy Planner

**File No:** I2023/571

**Summary:**

10 The Place Planning Collective (PPC) is a group of community members and Councillors who meet monthly with staff, their purpose is to guide the implementation of actions in our adopted masterplans. As stipulated in the Place Planning Charter, *“the collective will be made up of up to twelve community members and up to three nominated Councillors”* with members being appointed for a two-year term.

15 The Federal Masterplan Steering Group previously had two representatives on the Place Planning Collective during the process of creating the Federal Village Masterplan. One member resigned due to personal commitments and the other member is almost at the end of their two-year tenure.

The Federal Village Masterplan was adopted in December 2022 (res **22-678**). We are now seeking to add two Federal representatives to the PPC. An expression of interest (EOI) was advertised for seven weeks to 16 April 2023. Four applications have been received.

20 Council is requested to select two members from the submitted expressions of interest to join the PPC so they can continue to work with the Federal community to promote and support implementation of actions from the Masterplan.

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**RECOMMENDATION:**

1. **That Council selects two community representatives from the nominations received in Attachment 1 (E2023/38502), to the Place Planning Collective being \_\_\_\_\_ and \_\_\_\_\_.**
- 30 2. **That the appointed Place Planning Collective representatives be notified of their appointment to the Collective and be provided with a copy of the Place Planning Collective Charter and Code of Conduct.**
3. **That unsuccessful nominees be thanked for their submission.**


**Attachments:**

35

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

- 1 Confidential - CONFIDENTIAL submissions, E2023/38502
- 2 Template - Form of Special Disclosure of Pecuniary Interest, E2012/2815 

## Report

### The Place Planning Collective

Established in 2019, the PPCs purpose is to guide and influence the implementation of existing and future masterplans in Byron Shire.

- 5 Made up of both community representatives and Councillors, the current Collective has eleven community members, one of whom is a representative of the Federal Village Masterplan steering group.

- 10 The Place Planning Collective meet monthly as a whole group and are responsible for connecting to their respective communities to share relevant information. The Place Planning Charter provides guidelines for the working group.

Further information on the Place Planning Collective, its charter, members, and meeting minutes can be found on Council's [website](#).

### The Federal Village Masterplan

- 15 As Council's first community led masterplan, the development of the Federal Village Masterplan began in 2020. Council staff worked closely with the Federal Village Masterplan Steering Group, a group of ten community volunteers who worked hard to ensure that the masterplan reflected the aspirations of the wider community.

Further information about this process, including videos and the documents created can be found [here](#).

### 20 Expression of Interest Process

The Expression of Interest (EOI) was advertised on Council's website for four weeks (24 February until 24 March 2023). Due to a low number of applications received, additional advertising was carried out and the closing date was extended to 16 April 2023. No further applications were received during this period.

- 25 In addition to Council's website, and social media platforms, posters were placed in Federal, Clunes and Mullumbimby. The Place Planning Collective and the Federal Village Masterplan Steering Group also distributed to their networks.

Four applications were received of which two are from members of the Masterplan Steering Group.

### 30 Next Steps

That Council select two nominees from Attachment 1 to the Place Planning Collective.

## **Strategic Considerations**

### **Community Strategic Plan and Operational Plan**

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
Community Objective 4: We manage growth and change responsibly	Support the visions and aspirations of local communities through place-based planning and management	Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.1.2	Continue to implement actions from Our Mullumbimby Masterplan, Bangalow Village Plan and Byron Arts and Industry Estate Plan

### **Legal/Statutory/Policy Considerations**

- 5 One application refers to concerns around zone changes and Code of Conduct of parties. Please note that these issues were addressed in the Federal Village Masterplan [report to Council](#) on 8 December 2022.

**Report No. 13.4 Byron Music Festival - request to alter Council Resolution 22-509**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Sharyn French, Manager Environmental and Economic Planning

**File No:** I2023/637

**Summary:**

10 Council has received a request from the Byron Music Festival (BMF) event organiser asking that Council reconsider the requirement to do a dune stability geotechnical assessment as specified in Resolution **22-509**.

Additionally, through staff's preliminary review of the BMF Review of Environmental Factors a further two items require Councils consideration i.e. licence period and number of bars serving alcohol.

15


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**RECOMMENDATION:**

**That Council:**

- 20
- 1. Lifts the requirement on Byron Music Festival to undertake dune stability geotechnical assessment as specified in resolution 22-509.**
  - 2. Supports a licence period that does not exceed 4 days.**
  - 3. Supports an additional bar bringing the total number of bars serving alcohol to 3.**

25 **Attachments:**

- 1 BMF Email on 23 April 2023 - Redacted, E2023/42248 
- 2 Confidential - BMF REF Excerpt - Table 2 - Consideration of environmental factors, E2023/42306

30



## Report

Council considered a [report](#) at the 29 September 2022 Council meeting, on a request from the Byron Music Festival event organisers to use part of Dening Park, Byron Bay (Crown Reserve R82000) to host the 2023 Byron Music Festival (BMF) on 17 June 2023.

5 Council resolved **22-509**:

1. *Acknowledges the significant contribution to Byron Shire's cultural life, economy and promotion of the arts by the Byron Music Festival 2021;*
2. *Supports the Festival being held within Byron township;*
3. *Actively supports the continuance of BMF as an annual event showcasing local musicians and the local music industry;*
4. *Notes that it has no lawful power to issue a licence to Byron Music Festival for use of Dening Park but that the Crown Lands' Minister does have the power to issue licences for commercial activities*
5. *Encourages the proponents to apply directly to Crown Lands for a commercial activities licence for the 2023 Event;*
6. *Writes to the Crown Lands Minister expressing Council's support for a single event in 2023 subject to the following conditions:*
  - i. *that it is for a single event in 2023;*
  - ii. *the licence period not exceed 2 days;*
  - iii. *the patron numbers are limited to a maximum of 3,000;*
  - iv. *that a dune stability assessment be undertaken by a qualified geotechnical engineer to determine that the event is not worsening conditions of the site and its surroundings;*
  - v. *that this assessment be done as soon as possible and again within two to three weeks of the Festival commencement date, and*
  - vi. *that, after the geotechnical assessment, should the BMF event be deemed as potentially injurious to the site and surrounding areas it must not proceed on Dening Park.*
7. *Notes the short time available to produce the festival by June 2023 and actively aids and supports Byron Music Festival (BMF) to deliver by that date;*
8. *For reasons of prudent and responsible service of alcohol, supports a second bar area in front of the main stage as per the application request made in 2021 and as per the recommendation by Byron Police and Tweed/Byron Licensing, and*
9. *Intends that any future Plan of Management of Dening Park maintains the use of the Park as a community area.*

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.4

Council has now received a request from the Byron Music Festival organisers, dated 23 April 2023 (Attachment 1), asking that Council review two items:

1. The requirement of Resolution **22-509** (part 6. iv to vi) to undertake a dune stability geotechnical assessment, and
- 5 2. The temporary suspension of alcohol restrictions on Denning Park to enable the service of alcohol at the event.

Item 2 is subject of separate report to Council in this meeting's agenda.

### **Dune stability geotechnical assessment**

Regarding item 1. BMF state in their email (Attachment 1):

- 10 *'It was confirmed that council was not required to conduct a geo-structural assessment to construct the new public toilets planned for Denning Park. Given that the toilet project changes the landscape, permanently impacts the site, and includes underground plumbing, and BMF has no permanent impact on the site, we would reasonably presume we should not be required to do our own assessment at our own cost. Further, the REF*
- 15 *authored by an independent consultant refers to the minimal environmental impact expected by BMF (REF, Section 9, Pages 33-35). We maintain we will happily comply with anything required of us, but it does not seem necessary in these comparative circumstances'*

- 20 An extract of Section 9, pages 33-35 of BMF's Review of Environmental Factors (REF) is provided in Confidential Attachment 2.

It is recommended that Council lifts the requirement on BMF to undertake dune stability geotechnical assessment as specified in Resolution **22-509**.

### **Additional matters requiring Council's consideration**

- 25 Additional items that need further consideration of Council have been identified by staff in their preliminary review of the REF provided by BMF on 24 April 2023.

Crown Lands has requested Council advice on the REF be provided to Crown Lands by close of business Tuesday 2 May 2023, as such staff are still working through the REF review at the time of writing this report. Should any new information require alterations to this report, it will be issued under separate cover to this report.

- 30 There are currently two additional matters requiring Council's consideration:
1. the licence period does not exceed 2 days (Res 22-509, Part 6. ii)
  2. the number of bars serving alcohol being 2 (Res 22-509, Part 8)

**Licence period**

5 Res **22-509** states that the licence period not exceed 2 days. The REF advises that *‘the installation and removal of temporary structures and facilities for the Event (also referred to as ‘bump in and out’) will be conducted on Friday 16 June and Monday 19 June 2023 respectively’*. Therefore, a licence would need to be issued for 4 days.

It is recommended that Council consider supporting a licence period that extends to a total of 4 days.

**Number of bars serving alcohol**

10 Res **22-509** supports a total of two bar areas. The REF advises that alcohol will be served from 3 bars: 1 inside the Surf Club hall; 1 in the green licensed space outside the Surf Club; and one in the mid-site bar.

It is recommended that Council consider supporting an additional bar bringing the total number of bars to 3.

**Strategic Considerations**

15 **Community Strategic Plan and Operational Plan**

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
<b>2: Inclusive Community</b> We have an inclusive and active community where diversity is embraced and everyone is valued	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.3: Events and festivals - Support and enable arts & cultural activity, festivals, projects, and events	2.1.3.8	Administer licences for weddings, events, activities and filming on council and crown land
<b>2: Inclusive Community</b> We have an inclusive and active community where diversity is embraced and everyone is valued	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.3: Events and festivals - Support and enable arts & cultural activity, festivals, projects, and events	2.1.3.9	Collaborate with government, agency and industry on policy and legislative reforms

**Recent Resolutions**

Council passed the following resolutions relating to the Byron Music Festival:

**21-040 Resolved:**

- 5 1. That Council grants a temporary licence in accordance with section 2.20 of the Crown Land Management Act for the purpose of Entertainment, Exhibition and Markets to the Byron Music Festival between Friday 18 June 2021 and Monday 21 June 2021 for occupation of Dening Park.
- 10 2. That the granting of the temporary licence be subject to receipt and favourable assessment of a full Event Application including:
  - a. management of environmental risks on the site with consideration to the dune areas
  - b. financial structure and management of the event.

**21-183 Resolved:**

- 15 1. That any restrictions affecting the sale and consumption of alcohol in that part of Dening Park Byron Bay highlighted in red in the following aerial be suspended for the duration of the Byron Music Festival on 19 June 2021.



- 2. That the Police and any other relevant authorities be notified of Council's resolution.
- 20 3. That Council makes clear that this event in this location being free of alcohol restrictions is a one-off and in no way to be relied upon as a precedent.

## BYRON SHIRE COUNCIL

### 21-198 Resolved:

*That Council grants a temporary licence in accordance with section 2.20 of the Crown Land Management Act for the purpose Entertainment, Exhibition and Markets to the Byron Music Festival for Saturday 19 June 2021 for occupation of Dening Park, subject to:*

- 5 1. *All market stalls on the beachside of the existing pathway to be moved back, a minimum of 10m from the timber fence, in line with the pathway, with the area between the back of stalls and the timber fencing to be back of house only, with no general public access;*
- 10 2. *Market stalls requiring vehicles integral to stall operation, are to be located on the south side of the path;*
3. *The proposed 'world stage' is to be relocated away from the dune edge to the south side of the path.*
4. *A limit of 3,000 people being imposed on the Dening Park site.*

### 15 21-408 Resolved (relevant part):

4. *Council recognises this unique event and the circumstances in which it took place and supports a reduction of fees as per option 2 in the agenda: The reduction of fees includes the private rate for the event day only, and standard rate for the set up and pack down event days, when tickets were not required to enter the location. The Temporary Licence for Activity on Crown Reserve fees would then reduce from \$10,212 to \$4,086 (a reduction of \$6,126). This reduced fee combined with the other fees would equate to a total fee payable to Council of \$6,894.*

- 25 **22-509 Resolved** – refer to the body of this report.  
Council passed the following resolutions relating to the use of R82000:

### 22-057 Resolved:

- 30 1. *Pending adoption of a new Plan of Management, Council as Crown Land Manager will not issue temporary licences for use of the Main Beach Reserve for activities that:*
  - (a) *are inconsistent with the gazetted purpose of Public Recreation,*
  - (b) *are of an enclosed commercial nature (except as referred to in part 2)*
  - (c) *involve liquor licencing, and/or*
  - (d) *exclude members of the public from free use of the Reserve.*
- 35 2. *Council will continue to manage Low-Impact Commercial Recreation Activities on Main Beach Reserve consistent with Licence RI564194 and Council's adopted Policy Commercial Activities on Coastal and Riparian Crown Reserves.*

### **Legal/Statutory/Policy Considerations**

- Byron Shire Council adopted *Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves*
- Crown Land Management Act and Local Government Act

5 Refer to the [report](#) at the 29 September 2022 Council meeting for more information on these.

### **Financial Considerations**

10 If Council supports BMF's request to hold their 2023 event in Dening Park, then the organisers will be charged for the event in accordance with Council's adopted fees and charges.

### **Consultation and Engagement**

Information provided by Byron Music Festival proponents by email on 24 April 2023, was relied upon to prepare this Report.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.1 Report of the Local Traffic Committee Meeting held on 18 April 2023**

5 **Directorate:** Infrastructure Services  
**Report Author:** Shelley Flower, Traffic and Parking Systems Officer  
**File No:** I2023/605

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10 **Summary:**

The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 18 April 2023 for determination by Council.

Council's action on the LTC advice will be:

- 15 a) If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- 20 b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- c) If Council is in agreement with the LTC unanimous decline then the proposal may be rejected. Again there is no conflict between Council and the advice of the LTC. Consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- 25 d) If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then the Council must first advise the TfNSW and the NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- 30 e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the TfNSW and NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the RTC.

Due to the fact that the TfNSW and the NSW Police have the power to appeal certain decisions of the Council, the LTC cannot provide its advice to Council until both TfNSW and the NSW Police have provided their vote on the issue.

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**RECOMMENDATION:**

- 5 1. That Council notes the minutes of the Local Traffic Committee Meeting held on 18 April 2023.

2. That Council adopts the following Committee Recommendation:

**Report No. 6.1 A new Pedestrian Refuge at 23 Bayshore Drive, Byron Bay**  
File No: I2023/406

**Committee Recommendation 6.1.1**

That LTC support the traffic control devices, regulatory signage and line markings associated with the New Pedestrian Refuge on Bayshore Drive, as shown in attachment 1 (E2023/28327).

3. That Council adopts the following Committee Recommendations:

**Report No. 6.2 2023 Splendour in the Grass Music Festival**  
File No: I2023/495

**Committee Recommendation 6.2.1**

1. That LTC note the Traffic Guidance Schemes for the 2023 Splendour in the Grass to be held between 21<sup>st</sup>-23<sup>rd</sup> July, 2023. This includes:

- a) The installation and enforcement of No Stopping signs every 75m on:-
  - i) Tweed Valley Way through to the shire boundary in the north;
  - ii) Brunswick Valley Way from Shara Blvd intersection in the south through to Tweed Valley Way intersection;
  - iii) Yelgun Road, from Tweed Valley Way and extending for 300m;
  - iv) Billinudgel Rd from Tweed Valley Way and extending for 280m.
- b) An alternate temporary pick up and drop off Bus Zone (with associated signage and works) on the northern side of Fawcett St, between Mona Lane and the War Memorial, Brunswick Heads.

2. That the event organisers are to undertake the following:

- a) Separate approvals by NSW Police and TfNSW being obtained, noting



that the event is on a state road or may impact the state road network;

- b) **The Traffic Management Plan and Traffic Guidance Schemes be implemented by those with appropriate accreditation and the holding of current and appropriate levels of insurance and liability cover;**
- c) **That the impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.**
- d) **The event be notified on Council's webpage with event details supplied to Council by the event organiser.**

**3. That the event organiser:**

- a) **inform the community and businesses that are directly impacted (e.g. within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
- b) **undertake consultation with emergency services and address any identified issues/concerns.**
- c) **arranging for private property access and egress affected by the event;**
- d) **liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
- e) **holds \$20m public liability insurance cover which is valid for the event.**
- f) **not place any signage on the road related area of the Pacific Highway.**
- g) **undertake an event debrief within one month following the festival which includes but is not limited to Council, TfNSW and Police representatives.**

**4. That Council adopt the following Committee Recommendation:**

**Report No. 6.3 Market Parking - Somerset Street, Byron Bay**

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.1

File No: I2023/522

### **Committee Recommendation 6.3.1**

**That the Local Traffic Committee support the implementation of the Byron Bay Community Markets two-hour parking area implementation for market days only in Somerset Street, Byron Bay.**

#### **5. That Council adopt the following Committee Recommendation:**

**Report No. 6.4 No Parking Area - Scanlons Road (Devines Hill, Lookout)**

File No: I2023/523

### **Committee Recommendation 6.4.1**

**That the local Traffic Committee support the implementation of a No Parking Area for the access road for Devine Hill (Scanlons Road) to help prevent/enforce nuisance camping.**

#### **6. That Council adopt the following Committee Recommendation:**

**Report No. 6.5 Extension of No Parking Area - Bayshore Drive, Byron Bay**

File No: I2023/527

### **Committee Recommendation 6.5.1**

**That the Local Traffic Committee endorse the proposed extension of the existing no stopping area in Bayshore Drive from Wallum Place to the end of Bayshore Drive.**

#### **Attachments:**

5

- 1 Minutes 18/04/2023 Local Traffic Committee, I2023/590 

## Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 18 April 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [https://byron.infocouncil.biz/Open/2023/04/LTC\\_18042023\\_AGN\\_1683\\_AT.PDF](https://byron.infocouncil.biz/Open/2023/04/LTC_18042023_AGN_1683_AT.PDF)

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 18 April 2023.

### Committee Recommendation

As per the Reports listed within the Local Traffic Committee Meeting of 18 April 2023.

### 10 Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 18 April 2023.

### Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 18 April 2023.

**QUESTIONS WITH NOTICE**

**Question with Notice No. 15.1 Council's herbicide usage**

**File No:** I2023/617

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Cr Duncan Dey asks the following question:

- 10
1. Does Council keep records of our herbicide usage, and if so what categories or types of herbicides are recorded?
  2. Are our records calendar or financial year based, so that comparisons can be made over time?
  3. If not volumes of each herbicide at various concentrations, do we keep records of say annual expenditure on herbicides, or are there other ways of tracking our usage?

15

  4. If we don't keep usage or purchase records, are there other ways Council's usage can be assessed?

**Response Director Infrastructure Services:**

20 Council staff seek to maintain registers of chemical application for Parks, Drains and Open Spaces and Bush Regeneration projects. Improved recording was implemented from mid-2022.

Data collated includes;

- 25
- Date and Time of application
  - Quantities of Glyphosate
  - Quantities of Metsulfuron
  - Quantities of Surfactant
  - Method of application
  - Target Weeds

Council Stores record quantities of Glyphosate and Metsulfuron purchased, however this cannot be related to actual usage.

30 Comparison of recorded usage on an annual basis can be problematic as individual projects have varying requirements depending on the management processes in place or emergent issues.

Council's Bush Regeneration projects provide the most valuable data in relation to the reduction in chemical usage over time in relation to management practices.