

Agenda Ordinary/Planning Meeting

Thursday, 5 September 2024



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

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

Public access relating to items on this agenda can be made between 9:00 and 10:30 am 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

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or

Committee:

- (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
- (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

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.

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BUSINESS OF ORDINARY 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

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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

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 screen at the meeting.

NOTICES OF MOTION

Notice of Motion No. 9.1 BayFM Support


File No: I2024/1095

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I move that Byron Shire Council:

- 10 1. **Takes steps to support the promotion of BayFM as requested by BayFM's Community Engagement Officer, Nell Schofield (attached).**
2. **Explores methods to fund signage on Ewingsdale Road and Broken Head Road sought by BayFM to promote its critical contribution to our community and its culture.**
- 15 3. **Notes that the signage would communicate a positive local message such as "Listen Like a Local", "Cheer up, slow down, chill out." Or "Chill out. Turn on. Tune in".**

Attachments:

- 20 1 Bay FM Support - Letter from Nell Schofield, E2024/89461 

Signed: Cr Mark Swivel

Councillor's supporting information:

BayFM is a community radio station that serves Byron shire and beyond and has done so for over 20 years.

- 25 The station lives on government grants, local advertising revenue and donations.

The almost entirely volunteer staff deliver an incredibly diverse range of programs across music and culture, news and politics, and endlessly support community events.

BayFM is part of who we are in Byron Shire and deserves all support to preserve our local identity.

- 30 A letter from much loved presenter Nell Schofield is **attached** to support this proposal.

Staff comments

**by Esmeralda Davis, Director Corporate & Community Services and Jess Mitchell
Acting Media Communications Coordinator:**

In response to recommendation 1:

5

The media and communications team already advise project teams that BayFM is one local media outlet they can choose to advertise with, where budget allows.

10 Due to the timeframes required to have a radio ad script approved internally and to get it produced by BayFM, project timelines may not enable this to occur where there is a short lead time. However, the communication team will continue to promote the station as an advertising option available to project teams.

In response to recommendation 2:

The media and communications team supports a sign for BayFM. The below support and funding options are available to BayFM.

15 Grant Finder and Letter of Support

In seeking grant funding to support this initiative, BayFM could access [Grant Finder](#) on Council's website. Grant Finder is a free grants alert and subscription service.

It may be used to:

- Search for grants and funding from several sources
- 20 - Subscribe for alerts when new funding opportunities come up
- Get help with grant writing

25 Council often provides grant applicants with a letter of support, provided the applicant contacts Council at least two weeks before the closing date of the grant to make this request. This can be done using the [online form](#) on Council's website. In assessing the request, the following is considered:

- Is the organisation located within Byron Shire?
- Alignment to existing Council priorities, strategies and policies
- Benefits to Byron Shire local communities, for example is there an identified need for the project, service or event
- 30 - Potential conflicts with existing community organisations and businesses

Once a suitable grant is identified, BayFM is encouraged to seek a letter of support from Council as outlined above.

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Council Grants

Each year Council offers a variety of grants to support community, arts, events, and heritage projects. With the many requests to Council seeking financial assistance, this is the fairest and most transparent way to support our community.

5 The two funding streams below may offer the most relevant pathway for this initiative:

1. Community Initiatives Program

In April each year, organisations are invited to apply for grants of up to \$5,000 as part of our annual Community Initiatives funding program. Grants are on offer for projects that address a specific need, build a sense of community, and align with Council's priorities.

10 More about the Community Initiatives program and how to apply on Council's [website](#).

Eligibility:

- Incorporated organisations with an ABN or proof that you are not required to be registered for GST
- Not-for-profit entities
- 15 • Indigenous corporations
- Auspiced groups

2. Mayoral Fund

Each year Council allocates funding to support individuals and community groups as part of the Mayoral Fund. Information is published on Council's [website](#), or potential applicants can [complete an online](#) form to receive an email when applications open.

20

Eligibility:

- Applicants must be a not-for-profit entity
- The amount of funding may not match the amount applied for
- An application may not necessarily result in a donation

25

In response to recommendation 3:

The media and communications team have reservations about the use of the slow down, chill out sign/concept.

30 This is such an iconic sign. Council use this for various campaigns (E.g. Slow down, chill out, wear a mask/slow down, chill out, wear a leg rope). Enabling other organisations to use this concept will dilute its impact and, as such, an alternative message would be supported – E.g. 'listen like a local' or another appropriate catchy phrase.

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Financial/Resource/Legal Implications:

As outlined in above comments.

Is the proposal consistent with any Delivery Program tasks?

Yes

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.1: Community grant programs - Provide financial assistance and grants to empower community groups and organisations to deliver priority projects	1.5.1.1	Deliver annual Community Initiatives Program and associated funding and support

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Notice of Motion No. 9.2 Mullumbimby Civic Hall Courtyard

File No: I2024/1195

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I move that Council:

1. Engages with Council's Public Space Liaison Officers and Byron Assertive Outreach workers to increase patrols and outreach in that area.
- 10 2. As an interim measure, reviews the current courtyard design to Identify features that may inadvertently encourage rough sleeping and apply principles of Crime Prevention Through Environmental Design (CPTED) to reduce the risks.
- 15 3. Seeks legal advice on the excision of the courtyard from the Mullumbimby District Neighbourhood Centre (MDNC) lease in future and, subject to this advice, considers excising the courtyard from future sublease arrangements of the site post 2027.
4. Investigates the use of fencing with gates around the courtyard to protect the functional viability and safety of hall patrons, hirers and workers.
- 20 5. Investigates improved soundproofing of the hall adjacent to the courtyard between the neighbourhood centre and the hall.

Signed: Cr Peter Westheimer

25 Councillor's supporting information:

Addressing Disruptions to the Safe and Operational functioning of the Mullumbimby Civic Hall due to courtyard issues between the hall and the adjacent MDNC.

There are two agreements related to the MDNC parcel:

Lease to Council from the Crown is until 2032 and a Sub-lease to MDNC is until 2027.

- 30 The courtyard is part of the footprint of the parcel of land sub-leased to MDNC.

The parameters of the lease need to be changed so that hall patrons and staff can have safe access to the courtyard which is the main breakout area of the hall during events.

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The courtyard should be regarded as an essential space relating to the normal functioning of the hall which is the one of the most used and most iconic halls in the Shire.

It is arguably the cultural heart of Byron Shire for everything from major events whether they be musical, film, theatre, dance and political or social events. And that's just the hall.

- 5 The multifunction space at the front of the hall is also hired out separately for smaller functions, art exhibitions, talks and exercise classes. It too adjoins the kitchen with a stainless-steel counter type bench.

- 10 There have been recurrent issues relating to the courtyard a few of which I have experienced during my time over the years on the Hall committee, including a term as its chair. During a previous term of Council, Cr. Paul Spooner actively tried to address the issue as well.

- 15 The current manager of the hall recounts numerous incidences where rough sleepers have threatened and disrupted the Mullum Civic Hall affecting people who work there such as cleaners, people who are opening up the kitchen as well as the hirers of the hall such, that the viability of the hall in the long-term could be threatened if this difficult but solvable issue is not addressed.

- 20 Because of these ongoing threats to the public the hall's Board of Management and myself as Council's representative to the board recently approved and steered a change to the kitchen area such that it can be accessed now from inside the hall rather than only through the courtyard as previously.

This has involved considerable angst for the Manager and the BOM as they have struggled to protect users and workers at the hall. It is really unacceptable that after so many years now a solution has not been found and that full cooperation between the hall and the MDNC has not occurred.

- 25 During my steering of the major renovations of the hall from 2004 to 2008 the MDNC's director appeared to treat the cultural value of the hall to the community as secondary to the social needs of the homeless people using the courtyard. It's time for this long-term issue to be addressed such that the people of Mullumbimby and the shire have safe and unfettered access and use of the hall without risk of event disruption and personal harassment.

- 30 Former Mayor Simon Richardson during his terms envisioned the courtyard as a pleasant space where workers from Mullumbimby could enjoy their lunch breaks, such that some improvements to the courtyard were made including basic perimeter seating.

- 35 However, it also became a gathering spot for not only homeless individuals but also groups engaging in antisocial behaviour, such as drinking, smoking, and leaving litter behind.

- 40 Over the past nine years the current Venue Manager has had to have frequent interactions with rough sleepers in the courtyard. She has informed me that she always introduces herself, enquires about their well-being, and asks about their plans including working with them to ensure they could move elsewhere during large events scheduled at the hall. While the Council's policy is not to move on vulnerable homeless people, the venue manager is also responsible for maintaining a safe and welcoming environment for the

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broader community who use the hall. She has received cooperation from some of the rough sleepers who were willing to relocate when informed of upcoming events. Unfortunately, others have been offensive and belligerent, such that she has had to endure abuse in these interactions.

- 5 At times, individuals have slept across the hall's doorways, making it difficult to access the kitchen, which until recently had only external access. They have also sat or slept against other external doors.

Despite clear signage prohibiting smoking in the courtyard, groups often loiter there, and smoke drifts into the hall, creating additional issues.

- 10 Over the years she has sought support from the MDNC staff when dealing with aggressive or unstable individuals and has had a collaborative relationship with the MDNC staff in this regard. Some issues have escalated unfortunately.

- 15 One significant problem was the external power points in the courtyard. People were using them not only to charge phones but also to power toasters, heaters, and lights, which led to frequent littering and disorder around the power outlets.

This was partially resolved with the installation of an internal shut-off switch, controlled by the MDNC, which has helped. However, this solution also means that if hirers need access to power in the courtyard advance notice needs to be arranged for the switch to be turned on, and it remains on for the entire weekend.

- 20 During the hall's repair phase, when fencing was erected around the site, a person set up a makeshift home behind the fencing, bringing along a considerable amount of bedding and other items.

- 25 On several occasions, the venue manager of the last 9 years has had to call the police due to rowdy and aggressive behaviour in the courtyard. She has frequently relied on the help of Craig Bridge, the community enforcement officer.

Recently, a woman who had been sleeping on the hall porch for several weeks caused significant disturbances by playing loud music, shouting, swearing, smoking bongs, and drinking.

- 30 This behaviour recently disrupted a two-week booking for Northern Rivers Performing Arts (NORPA) rehearsals such that NORPA would be unlikely to use the hall again. For this to happen with the region's peak theatre organisation is unacceptable.

- 35 The same person also caused problems during a large recent hiring an incident which by chance I personally observed. The venue manager had to contact the police three times that day and issued a Banning Notice (as did the MDNC) until the police were able to remove her.

To mitigate risk to caterers and hall users the board approved a renovation to the kitchen bench to provide internal access to the kitchen, reducing the need to leave doors open.

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Sometimes during events temporary fencing is put in place, for which hirers also donate an amount to the MDNC but this is not really adequate, as it poses a safety hazard by blocking emergency exits, given that the fencing is secured with cable ties.

- 5 Permanent, attractive iron fencing, ideally in an Art Deco style (the hall was first opened in 1929), along the street side and plainer fencing at the rear of the courtyard, with lockable gates should be installed. The gates could remain open during MDNC's operating hours and be locked at night and during events.





Staff comments

by Geeta Cheema, Manager Social and Cultural Planning, Corporate and Community Services:

Background

- 5 Under the terms of its sublease with Council, Mullumbimby and District Neighbourhood Centre (MDNC) has exclusive use of Lot 8 DP758725 which includes the entirety of the Courtyard (Figure 1). The sublease expires in 2027.

Figure 1. Lot 8 DP758725 as subleased to MDNC, including Courtyard (Source: Geocortex).

Parcel No: 18210
Lot 8 DP758725
Address: 55 Dalley Street, MULLUMBIMBY
Owner: Crown Land
Ratepayer: Byron Shire Council

[View Additional Details](#) | [Add to Results](#)



- 10 MDNC is a community service organisation which provides a range of services to vulnerable members of the Byron Shire community. MDNC services include, for example, food support, domestic and family violence services, counselling and disaster recovery casework support services. MDNC's clients include people sleeping rough.
- 15 The Courtyard area includes a small building known as 'the Cottage' or 'the Annex'. The Cottage contains a toilet and shower which are available to MDNC clients during business hours (Monday to Friday, 9:30am to 4:00pm). The Cottage also includes office spaces that are utilised by MDNC staff and for meetings of community organisations and groups.
- MDNC has enabled the Civic Hall to hire out the Courtyard for an optional fee. MDNC is under no obligation to offer the Courtyard to the Civic Hall Committee.
- 20 The Mullumbimby Civic Memorial Hall Fees and Charges (Figure 2) acknowledge that the Courtyard is managed by MDNC, i.e., "the courtyard space is managed by Mullumbimby and District Neighbourhood Centre and these funds are collected for maintenance and works required in the courtyard."

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Figure 2. Excerpt from Fees and Charges, Mullumbimby Civic Memorial Hall.

Name	Year 24/25 Last year fee (incl. GST)	Year 25/26 Fee (incl. GST)	Increase %	Pricing Code	Approval Status
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Entire Venue (Main Hall, Front Room, Kitchen) [continued]

Exclusive use of courtyard	\$50.00	\$50.00	0.00%	P	Unedited
<i>Per day. The courtyard space is managed by Mullumbimby and District Neighbourhood Centre and these funds are collected for maintenance and works required in the courtyard.</i>					

As established in the February 2024 Street Count conducted by NSW Department of Communities and Justice, Byron Shire has the highest number of people sleeping rough of any Local Government Area in the state. Council finds it unacceptable that so many people in the shire are in this vulnerable situation and has advocated to state government to improve homelessness services and housing options in the shire. Council has been proactive in addressing homelessness through initiatives including the Public Space Liaison Officer role and facilitation of Ending Rough Sleeping Collaboration Project.

The [Protocol for homeless people in public places](#) ensures that people experiencing homelessness are treated respectfully, with dignity, and do not face discrimination. In accordance with this Protocol, public spaces such as the area around Mullumbimby Civic Memorial Hall and MDNC should be accessed and enjoyed by everyone, including people who experience homelessness.

Staff comment on NoM recommendations:

1. Engagement of Council's Public Space Liaison Officers (PSLOs) and Byron Assertive Outreach workers to increase patrols and outreach.

In their recent patrols, PSLOs have noted that there does not currently appear to be anyone residing in the Courtyard. PSLOs attend a weekly BBQ hosted by MDNC which provides the opportunity to connect individuals to services when needed.

The Assertive Outreach workers (employed by Social Futures and Momentum Collective) have confirmed that they are aware of the Courtyard as a gathering place for people sleeping rough. Their funding program guidelines require them to engage with individuals at their sleeping location / camp.

2. Crime Prevention Through Environmental Design (CPTED) review

Council has identified funds to enable a CPTED site assessment of the Courtyard to determine if environmental changes may improve safe use of the site. The lessee, MDNC, is supportive of a CPTED site assessment.

3. Legal advice on the excision of the courtyard from the MDNC lease post 2027.

Prior to expiry of MDNC's sublease in 2027, Council is expected to conduct an end-of lease review. This review can consider whether it is appropriate to continue leasing Lot 8 in its entirety, including the Courtyard. The performance of the lessee and alternative uses

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should be considered in the end-of-lease review. Any new sub-lease arrangement will be subject to a decision of Council.

4. Fencing with gates around the Courtyard

- 5 Lot 8 is a Heritage-listed property. Heritage considerations limit the height of fencing to 1.2 metres. Fencing that aims to stop certain groups from using public spaces can potentially create inequitable impacts on people sleeping rough. Fencing solutions can be considered as part of the CPTED site assessment.

5. Investigates improved soundproofing of the hall adjacent to the Courtyard

- 10 Property Services has provided a preliminary estimate of \$50,000 for double glazing of the doors and windows on the Courtyard side of the Civic Hall. There are no funds available in the 2024-25 Community Buildings Maintenance budget for this project.

Financial/Resource/Legal Implications:

The cost of the proposed Crime Prevention Through Environmental Design Courtyard site assessment is estimated at \$5,000 to \$10,000.

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

Yes

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.3: s355 Committees - Support the management of community halls to delegated s355 committees	1.5.3.2	Develop and implement change project for Section 355 model of management for community halls
2: Inclusive Community	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.1	Respond to people experiencing homelessness and rough sleepers through engagement and referrals to appropriate support and housing services

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5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.1	Implement Open Space maintenance and capital programs in accordance within budget and Open Space Asset Management Plan
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Notice of Motion No. 9.3 Bus Shelters in Tallowood Estate

File No: I2024/1203

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I move that Council:

1. **Identifies the optimal locations for bus shelters within the Tallowood Estate, ensuring that at least one shelter is fully accessible.**
2. **Secures appropriate funding for the construction of these shelters through available contributions or grants.**

10

Signed: Cr Sarah Ndiaye

Councillor's supporting information:

As the rainy season approaches, there is a pressing need for bus shelters in the Tallowood Estate.

15

Residents say currently, approximately 15 children use the bus in this area and lack adequate protection from the elements. The absence of shelters poses significant challenges, particularly during adverse weather conditions, which can result in dangerous traffic situations as parents wait with their children in their cars to keep them dry.

The Tallowood Ridge community group say they have previously raised this issue with council staff. Despite discussions and the bus stop being listed as a needed improvement in the broader shire, the specific requirement for shelters in Tallowood Estate has not yet been addressed. The bus sign's current placement and the lack of shelters have been ongoing concerns, and resolving this issue could greatly enhance safety and convenience for our community.

20
25

Staff comments

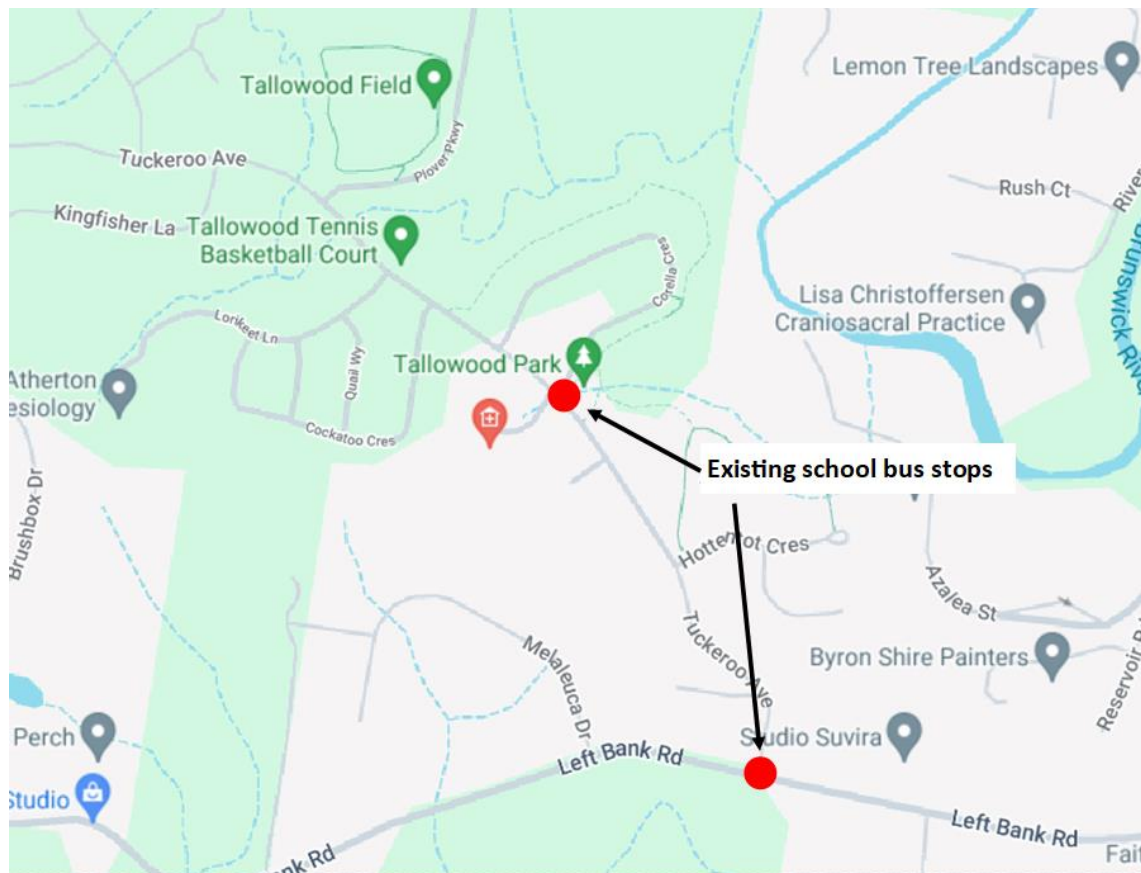
by Shelley Currie, Road Safety Officer, Infrastructure Services:

Council has identified two existing school bus stops in Tallowood Estate as part of the Bus Stop Upgrade Program. These were nominated through community feedback received in the 2022 Your Say bus stop survey and are located as shown on the map below.

30

The bus stop located on the corner of Left Bank Road and Tuckeroo Ave is considered a high priority as it is located at an intersection on a high-volume road. However, it is ranked 9th in a list of 14 high priority stops to be delivered in the second year of the 10 year

Program. At present, Council has no funding allocated for delivery of these bus stop upgrades.



5 The cost to construct an accessible and compliant bus stop with a shelter is approximately \$50,000 (this excludes any changes to road infrastructure or ongoing maintenance costs).

10 The Country Passenger Transport Infrastructure Grant Scheme (CPTIGS) is open for submissions from 1 July to 31 August each year. TfNSW have advised that this scheme is best suited for this type of work and there is no other funding available for bus route changes and infrastructure improvements. However, the grant funding is limited to \$20,000 for a stop with a shelter and \$4,500 for a stop without a shelter. This would require Council to secure at least \$30,000 additional funding, to enable upgrade of a single bus stop.

15 As per Council resolution **24-303**, Council staff are preparing a letter to the NSW Premier and Minister for Regional Roads and Transport which identifies the abovementioned funding shortfall and requests additional funds be made available.

20 Because of the cost involved in constructing and maintaining bus shelters, Council does not recommend providing them at school bus stops which are not adjacent to schools. These stops can change frequently in response to community needs and there is also no legislative requirement to provide bus shelters. There are a number of bus shelters in the shire which are underutilised, not well maintained and not accessible. However, bus operators often use public transport bus stops for school bus services and these might have existing shelters.

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Generally, bus operators liaise with TfNSW when selecting school bus stop locations and bus routes with little involvement from Council and any changes would require consultation and approval from both of these parties.

- 5 Council staff are happy to facilitate discussions pending priority matters with the Tallowood bus operator and TfNSW to try and identify a cost neutral solution to the road safety concerns (e.g. changing the bus stop location).

Financial/Resource/Legal Implications:

Council currently has no budget and/or resources allocated for delivery of bus stop improvement works.

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

Yes, this proposal aligns with below OP Activity 5.2.2.1: Advocate and apply for grants that improve accessibility to various transport options across the Shire.

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.2: Connect the Shire through integrated transport services	5.2.2: Public transport - Advocate for public transport services across Byron Shire that are convenient, regular, and easy to access	5.2.2.1	Advocate and apply for grants that improve accessibility to various transport options across the Shire

Notice of Motion No. 9.4 Grant Application for Lot 22 Masterplan

File No: I2024/1205

5

10 **We move that Council supports a placemaking initiative partnership with Mullum SEED and key stakeholders with the aim of applying in October 2024 for a Regional Precincts Program Grant, for the purpose of developing a collaborative design and new Masterplan for Lot 22.**

Signed: Crs Duncan Dey and Peter Westheimer

Councillor's supporting information:

15 At Council's Ordinary Meeting on 15 August 2024, Mullum SEED presented their knowledge of this grant opportunity and their perspectives on possible new uses for the rest of Lot 22 adjacent to Mullum SEED's current use as Mullumbimby Community Gardens. Discussions at the time were positive but this initiative had not been examined fully enough for adoption on the spot. The issue on 15 August was whether to exhibit a
20 Plan of Management (PoM) developed to cover changes of use in the Community Gardens. Resolution 24-404 puts that PoM on public exhibition, which we hope will happen this year.

The Motion above does give preference to one body but is only to prepare plans for the rest of Lot 22. It does not assign the land to anyone and should invite attention from the
25 whole community. If a masterplan results from it, that plan should go on public exhibition.

Hence, we support this Motion, and invite staff comment on it.

Lot 22 is not suitable for housing and is not required to fulfil the sporting needs of the Shire. This is an opportunity to gain public funding for a public examination of other potential uses for this public land.

30 We understand the NSW Department of Education may have foreseen a use for the land. If so and if the Department wishes to participate, it should be included as a stakeholder.

Staff comments

by Shannon Burt, Director Sustainable Environment & Economy; Esmeralda Davis, Director Corporate and Community Services:

5 Council has a proven track record that demonstrates its commitment to collaborative and innovative place and precinct planning, as well as the successful delivery of plans and projects that are widely supported by the communities they serve. However, staff do not support the proposed approach to enter into a placemaking initiative partnership with Mullum SEED and key stakeholders as this is largely inconsistent with Council's adopted position on Strategic Partnerships and Unsolicited Proposals, and other current Council resolutions impacting Lot 22.

Strategic Partnerships Policy and Unsolicited Proposals Guideline

Council has an adopted process for receiving and considering partnership proposals. The [Strategic Partnerships Policy](#) objective is to:

15 *...set out the framework for the establishment, management, and governance of partnerships entered into by Byron Shire Council with third parties, and provide clear pathways that assist parties in determining whether Council will consider partnerships ensuring Council is compliant with all relevant legislation and statutory requirements.*

20 The policy states that *the outcomes of a proposal must be to generate recurrent revenue, reduce recurrent expenditure or otherwise deliver quantifiable, demonstrable and recurrent benefit to the Council and the community.*

25 The current proposal could be considered, under this policy, an 'unsolicited proposal'. The process for making and evaluating an unsolicited proposal is defined in the [Unsolicited Proposals Guideline](#). The proponent has previously been offered guidance in relation to this process and is encouraged to consider lodging their proposal formally with Council, so that it can be assessed.

Council should note that there have been several approaches to Council in recent years about the use of Lot 22 for community initiated and run proposals. The advice has been consistent about the Policy, Guidelines and Process.

Existing Council resolutions

30 There are a number of current resolutions impacting Lot 22 which should be considered by Council in relation to this motion:

- 35 • **22-247** - Residential Strategy and Lot 22 update – Council resolved to “*Not progress the Planning Proposal for [affordable/diverse housing] on Lot 22 on DP 1073165, Mullumbimby at this time until the implications of the 2022 Flood Events and any further potential natural disasters are understood on the suitability of this land for future development.*”

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.4

Res 22-247 arose from community input during extensive public consultation on the Residential Strategy v2020. There are community expectations that this work will be completed before further consideration of future uses on Lot 22 can be categorically determined. The resolution did not rule out any specific future land use including potential temporary/transitional housing or a land swap option with Department of Education. Other Strategy and Planning updates current will be used to inform recommendations to Council in this regard. This includes a review of the Recreational Needs Strategy 2017. Any decision on land use by the proposed placemaking initiative partnership and masterplan at this time would be pre-emptive and outside Policy and process.

- **21-273 and 21-496** - Council resolved that prior to receiving a development application that staff prepare a report on a Transitional Supported Accommodation development for Lot 22. On considering the report Council resolved to suspend the preparation of a development application for Transitional Supported Accommodation on part of Lot 22. See comments above.
- **24-336** – Shire Wide Aquatic Strategy – concept designs from the Draft Options Report were resolved in June to be placed on public exhibition. This includes for Mullumbimby – New facility on the preferred site within Lot 22 adjacent to Mullumbimby Skate Park.
- **24-404** - Draft Plan of Management - Council resolved to exhibit a minor amendment to the draft PoM for Lot 22. Exhibition will commence late September. This minor PoM amendment does not replace the need for a full review of the PoM. This will occur once Strategy and Planning updates current are completed. This includes a review of the Recreational Needs Strategy 2017. Any decision on land use by the proposed placemaking initiative partnership and masterplan at this time would be pre-emptive and outside Policy and process.
- **22-684 and 24-056** - Place Plan priorities - In December 2022, Council resolved that Ocean Shores would be the next priority location for a Place Plan. This resolution requested a further report to Council providing a detailed project scope, methodology and budget. In February 2024, Council resolved to expand the scope to include South Golden Beach and New Brighton. The next priority for a Place Plan is Brunswick Heads. Supporting this proposal is inconsistent with Council's current resolved position.

Regional Precincts and Partnerships (RP&P) Grant Program

The RP&P Grant Program is in its second year of a three-year program. The 2024 round was announced in August 2023, and based on the RP&P Grant Program information, a third round of funding will be offered in 2025, so there remains time for proper assessment of an unsolicited proposal.

Financial/Resource/Legal Implications:

Caretaker provisions - Lot 22 has been a controversial site for a range of reasons and various stakeholders in community have strong connections to it. Staff have reviewed the motion and note it would not offend s328B (Caretaker provisions) of the Local Government

Act, however, it might be prudent for Council to consider whether it is in the spirit of caretaker conventions.

5 Code of Conduct considerations – Without proper assessment of the proposal it is unclear how the apparent pecuniary and non-pecuniary conflicts of interests of the proponent, and individuals and entities associated with the proponent, could be adequately managed by Council. Mullum SEED has existing interests in the land which could be in conflict with the interests of other community stakeholders. It is also assumed that individuals, not-for-profit enterprises (with paid staff) and for-profit businesses who operate in conjunction with Mullum SEED may be involved in the proposal but that cannot be known without proper
10 assessment. If they were, Council would need to be satisfied that any perceived or actual conflicts of interest related to those individuals/organisations could be managed.

15 Governance - Council has not seen the proposed grant application or had the opportunity assess the details of the proposal, with the motion based on a description of the proposal given during public access at the Ordinary meeting on 15 August 2024. It would not be appropriate for Council to resolve to support something it has not seen or had the opportunity to review and assess.

Is the proposal consistent with any Delivery Program tasks?

No.

20 The 2024/25 Operational Plan endorsed by Council in June 2024, does not include this activity. If Council determines this to be a priority, it will need to be adequately resourced which may negatively impact existing priority projects.

**Notice of Motion No. 9.5 CONFIDENTIAL - Rent rise for resident of
Holiday Park**

File No: I2024/1206

5

RECOMMENDATION:

1. That pursuant to Section 10A(2)(b) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Rent rise for resident of Holiday Park.
- 10 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) discussion in relation to the personal hardship of a resident or ratepayer
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
- 15 Contains information about the rental agreement with a long-term resident of the holiday park

MAYORAL MINUTE

Mayoral Minute No. 10.1 DA 10.2023.465.1 56B Bangalow Road

5 File No: I2024/1214

10 I move that DA 10.2023.465.1 56B Bangalow Road, Byron Bay be delegated back to staff for determination.

Background Notes:

The Council's Planning Review Committee meeting was held on 4 April 2024.

15 A DA for a Multi Dwelling Housing development on 56B Bangalow Road Byron Bay, comprising of 24 Dwellings was on the agenda.

The mix of dwellings to comprise: 'affordable housing' consistent with the definition within the Housing SEPP, some partially affordable (not consistent with the definition of affordable housing in the Housing SEPP) and some adaptable housing.

20 The PRC recommended that this DA be determined under staff delegation. See Report No. 13.5 PLANNING - Report of the Planning Review Committee held 4 April 2024 [Agenda of Ordinary \(Planning\) Meeting - Thursday, 16 May 2024 \(infocouncil.biz\)](https://www.infocouncil.biz) There were 30 submissions (19 Support 9 objections 1 petition).

25 However, when the Minutes of the PRC were reported to Council for endorsement, the recommendation was changed to:

BYRON SHIRE COUNCIL

MAYORAL MINUTE

10.1

Report No. 13.5 **PLANNING - Report of the Planning Review Committee held 4 April 2024**
File No: I2024/577

24-198 **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held 4 April 2024 other than for DA 10.2023.465.1 at 56B Bangalow Road BYRON BAY which will come to Council for determination due to:

1. The number of public submissions received;
2. The validity of matters (traffic) raised in submissions; and
3. The perceived public significance of the application. (Dey/Pugh)

The motion was put to the vote and carried unanimously.

Crs Lyon, Dey, Westheimer, Balson and Pugh voted in favour of the motion.

Nil voted against the motion.

Crs Hunter, Ndiaye and Swivel were not present for the vote.

The applicant has made a request through staff for Council to consider delegating the DA back to them for determination.

- 5 This is to avoid lengthy delays to this DA being reported for determination given the caretaker period and post-election meeting date not until November, and as a result minimise potential escalations in development and holding costs.

Signed: Cr Michael Lyon

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Grants August 2024

Directorate: Corporate and Community Services

5 **Report Author:** Donna Johnston, Grants Coordinator

File No: I2024/616


Summary:

10 Council is waiting on determination of 12 Grant Applications which, if successful, would provide funding to enable the delivery of identified projects. This report provides an update on grant applications.

RECOMMENDATION:

15 **That Council notes the Grant Submissions Report for the month of August 2024 (Attachment 1 #E2024/97352).**

Attachments:

20 1 Grant submissions as at 19 August 2024, E2024/97352 

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.1

Report

Currently Council has 12 grant applications awaiting determination (refer to Grants Submissions as of 19 August 2024 - Attachment 1, E2024/97352).

Successful applications

- 5 The following grants have been successful:

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council \$
NSW EPA	Local Government Waste Solutions Fund Round 2	Building Byron's Reuse Economy	\$266,960	\$198,500	\$68,460 (In kind)
NSW EPA	Waste and Sustainable Materials Strategy 2041 (WASM) Litter Prevention Grants Program – Intake 3	Implementation of Litter Prevention Roadmap	\$420,000	\$420,000	\$227,300 (In kind)
NSW Department of Education	Innovation Grant 22-23 Round 2	Afterschool Care Byron and Brunswick Heads	\$64,330	\$64,330	\$0
NSW Climate and Energy Action	Electric vehicle destination charging grants	Lawson Street Car Park EV Charging Station	\$14,343	\$10,757	\$3,585
NSW Climate and Energy Action	Electric vehicle destination charging grants	Mullumbimby Administration car park EV Charging Station	\$17,263	\$12,947	\$4,315
Transport for NSW	Get NSW Active 2024 - 25	Market Street Bangalow (design only)	\$100,000	\$100,000	\$0

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.1

Dept of Climate Change, Energy, the Environment & Water	Coastal and Estuary Planning Program 2023-24	Byron Shire Stage 3 Coastal Management Programs for Belongil and Tallow Creek Estuaries	\$85,000	\$56,664	\$28,333
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Unsuccessful applications

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council \$
Transport for NSW	Get NSW Active 2024 - 25	Lighthouse Road shared path - construction	\$255,693	\$255,693	\$0
Transport for NSW	Get NSW Active 2024 - 25	Byron Street shared path	\$807,758	\$807,758	\$0
Transport for NSW	Get NSW Active 2024 - 25	Beach Avenue shared footpath - design	\$100,000	\$100,000	\$0
<p>Feedback: Program significantly oversubscribed. 345 applications received with a value of \$267M. 88 projects awarded with a value of \$60M.</p> <p>Projects to consider additional elements of place, such as places to rest, streetscaping and lighting. Safety outcomes such as intersection treatments to be considered. Reducing speed zone for Lighthouse Road to support safety outcomes.</p>					
NSW Department of Planning & Environment	Boating Now Round 4	Brunswick River Light Craft Launching Ramp Plan	\$55,000	\$40,000	\$15,000
<p>Feedback: Program is no longer going ahead and has been subject to a review by the NSW Government.</p>					
NSW Department of Planning and Environment	Flood Recovery and Resilience Grant Program	Federation Bridge debris implementation - camphor removal	\$130,000	\$130,000	\$0

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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NSW Department of Planning and Environment	Flood Recovery and Resilience Grant Program	Saltwater Creek upgrade assessment and mitigations option study	\$450,000	\$450,000	\$0
Feedback: Federation Bridge debris camphor removal did not rate highly enough to meet the objectives of the program. Saltwater Creek aligned with a flood study that cannot be funded under this program; Council should apply under the next round of the Floodplain Management Program.					

Upcoming Grant opportunities

[Spontaneous Volunteers Support Program | NSW Government](#)

5 The Spontaneous Volunteers Support Program (SVSP) has been established in response to the 2022 NSW Flood Inquiry's recommendation that the NSW Government create a program to support better coordination of community efforts to save life and property during a disaster. The Program is also informed by the NSW Government Review of Emergency Volunteering (2023).

10 The SVSP will provide \$5 million in funding to projects across NSW to support communities and volunteers to be better prepared, supported, coordinated and mobilised to respond to disaster events.

Potential Grant Amount: \$50,000 to \$100,000

Staff are currently preparing an application to support spontaneous volunteering within the shire.

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.9	Coordinate grant applications to support the delivery of Council projects and services within management plans, masterplans, strategic plans, council resolutions and high priority actions from feasibility studies; and support the management of successful grants

Legal/Statutory/Policy Considerations

Under section 409 3(c) of the *Local Government Act 1993* Council is required to ensure that 'money that has been received from the Government or from a public authority by way of a specific purpose advance or Grant, may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose'. This legislative requirement governs Council's administration of Grants.

Financial Considerations

If Council is successful in obtaining the identified Grants, this would bring funding sought to approximately \$11.7 million which would provide significant funding for Council projects. Some of the Grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded.

The potential funding is detailed below:

15	Funding applications submitted and awaiting notification (total value)	\$11,745,678
	Requested funds from funding bodies	\$11,491,008
	Council contribution cash	\$254,670
	Council co-contribution in-kind	\$254,670
	Other contributions	\$0

20	Funding determined in August 2024:	
	Successful applications	\$967,896 (total project value)
	Unsuccessful/withdrawn applications	\$798,451 (total project value)

Consultation and Engagement

Cross-organisational consultation has occurred in relation to the submission of relevant grants, and the communication of proposed grant applications.

Report No. 13.2 Council Investments - 1 July 2024 to 31 July 2024

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2024/1094

Summary:

This Report includes a list of investments and identifies Council's overall cash position for the period 1 July 2024 to 31 July 2024 for information.

10 This Report is prepared to comply with Section 212 of the *Local Government (General) Regulation 2021*.

RECOMMENDATION:

15 **That Council notes the report listing Council's investments and overall cash position as of 31 July 2024.**

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Report

Council has continued to maintain a diversified portfolio of investments. As of 31 July 2024, the average 90-day bank bill rate (BBSW) for the month was 4.54%. Council's performance for July 2024 was 4.73%. A higher BBSW indicates that Council earned a better return on its short-term investments compared to the market average.

The table below identifies the investments held by Council as at 31 July 2024.

Schedule of Investments held as at 31 July 2024

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	N	B	3.00%	971,690.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	N	B	2.38%	928,370.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	N	B	1.25%	973,140.00
27/11/19	500,000.00	National Housing Finance & Investment Corp	Y	AAA	27/05/30	N	B	1.52%	434,937.50
15/06/21	500,000.00	National Housing Finance & Investment Corp	Y	AAA	01/07/31	N	B	1.99%	500,346.07
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	N	B	1.40%	1,000,000.00
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	N	B	1.83%	813,490.00
30/10/23	850,000.00	Bank Australia Ltd	P	BBB+	30/10/26	N	FRN	5.84%	854,230.32
21/02/24	500,000.00	Bank Australia Ltd	N	BBB+	21/02/28	N	FRN	6.04%	503,768.22
27/11/23	1,000,000.00	Westpac Tailored	P	AA-	27/11/24	N	TD	5.40%	1,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
04/12/23	2,000,000.00	Bank of QLD	P	A-	04/10/24	N	TD	5.10%	2,000,000.00
07/02/24	1,000,000.00	Auswide Bank	P	BBB-	07/08/24	N	TD	5.15%	1,000,000.00
06/03/24	2,000,000.00	Beyond Bank	P	BBB	04/09/24	N	TD	5.05%	2,000,000.00
07/03/24	2,000,000.00	Judo Bank	P	BBB-	05/09/24	N	TD	5.20%	2,000,000.00
14/03/24	1,000,000.00	Bank of QLD	N	A-	16/09/24	N	TD	5.17%	1,000,000.00
08/05/24	2,000,000.00	Judo Bank	N	BBB	07/08/24	N	TD	5.05%	2,000,000.00
13/05/24	5,000,000.00	MyState Bank	P	BBB	13/11/24	N	TD	5.20%	5,000,000.00
20/05/24	1,000,000.00	MyState Bank	N	BBB	19/08/24	N	TD	5.05%	1,000,000.00
20/05/24	1,000,000.00	Judo Bank	N	BBB	19/08/24	N	TD	5.10%	1,000,000.00
22/05/24	1,000,000.00	MyState Bank	N	BBB	21/08/24	N	TD	5.05%	1,000,000.00
29/05/24	1,000,000.00	MyState Bank	N	BBB	27/08/24	N	TD	5.10%	1,000,000.00
05/06/24	5,000,000.00	Bank of QLD	N	A-	05/12/24	N	TD	5.20%	5,000,000.00
05/06/24	5,000,000.00	NAB	P	AA-	02/12/24	Y	TD	5.10%	5,000,000.00
05/06/24	5,000,000.00	Police Bank	P	BBB	04/12/24	N	TD	5.20%	5,000,000.00
06/06/24	2,000,000.00	Beyond Bank	N	BBB	05/09/24	N	TD	5.05%	2,000,000.00
18/06/24	2,000,000.00	NAB	N	AA-	16/09/24	Y	TD	5.00%	2,000,000.00
21/06/24	2,000,000.00	NAB	N	AA-	19/09/24	Y	TD	5.00%	2,000,000.00
27/06/24	1,000,000.00	Auswide Bank Ltd	N	BBB-	27/09/24	N	TD	5.05%	1,000,000.00
03/07/24	1,000,000.00	Bank of QLD	N	A-	03/01/25	N	TD	5.25%	1,000,000.00
03/07/24	2,000,000.00	MyState Bank	N	BBB	07/01/25	N	TD	5.35%	2,000,000.00
04/07/24	1,000,000.00	Judo Bank	N	BBB-	02/10/24	N	TD	5.15%	1,000,000.00
08/07/24	2,000,000.00	NAB	N	AA-	08/10/24	Y	TD	5.15%	2,000,000.00
10/07/24	4,000,000.00	Beyond Bank	N	BBB	09/10/24	N	TD	5.15%	4,000,000.00
10/07/24	5,000,000.00	NAB	N	AA-	06/01/25	Y	TD	5.35%	5,000,000.00
11/07/24	5,000,000.00	Beyond Bank	N	BBB	09/01/25	N	TD	5.35%	5,000,000.00
11/07/24	5,000,000.00	Judo Bank	N	BBB-	13/01/25	N	TD	5.35%	5,000,000.00
17/07/24	1,000,000.00	NAB	N	AA-	15/10/24	Y	TD	5.15%	1,000,000.00
18/07/24	1,000,000.00	Judo Bank	N	BBB-	18/10/24	N	TD	5.05%	1,000,000.00
29/07/24	1,000,000.00	NAB	N	AA-	28/10/24	Y	TD	5.10%	1,000,000.00
N/A	26,144,526.05	CBA Business Saver	P	AA-	N/A	Y	CALL	4.35%	26,144,526.05

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
N/A	547,015.10	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	Y	CALL	4.35%	547,015.10
N/A	10,249,221.86	Macquarie Accelerator Call	N	A	N/A	Y	CALL	4.20%	10,249,221.86
Total	114,290,763.01						AVG	4.66%	113,920,735.12

Note 1. CP = Capital protection on maturity

N = No Capital Protection

Y = Fully covered by Government Guarantee

P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

Note 2. Fossil Fuel ADI

N = No investment in Fossil Fuels

Y = Investment in Fossil Fuels

U = Unknown Status

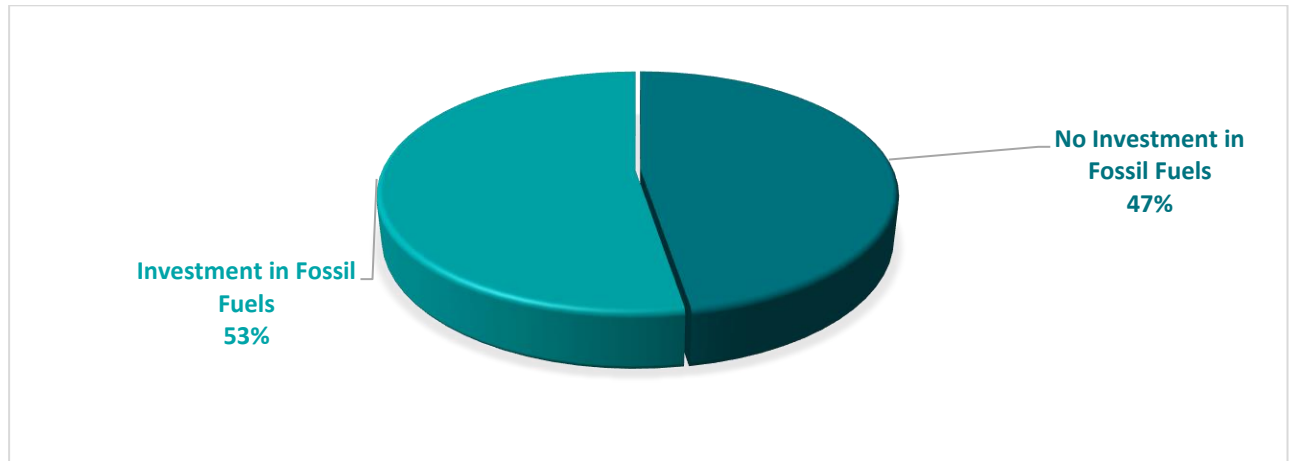
Note 3. Type Description

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

Environmental and Socially Responsible Investing (ESRI)

An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'Fossil Fuel' investing institution. This information has been sourced through www.marketforces.org.au and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Council's total investment portfolio in respect of fossil fuels only.

5



5 The notion of Environmental and Socially Responsible Investing is much broader than whether a financial institution as rated by 'marketforces.org.au' invests in fossil fuels or not. Council's current Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy which can be found on Council's [website](#).

Council may from time to time have an investment with a financial institution that invests in fossil fuels but is nevertheless aligned with the broader definition of Environmental and Socially Responsible investments. When this occurs, the investment will be marked as no fossil fuels given the investment purpose.

10 During the month of November 2023 as an example, Council undertook an investment with Westpac Bank as a tailored deposit. The investment proceeds are utilised for environmental purposes as this investment in Climate Bond Certified.

15 With the lifting of the NSW Treasury Corporation loan borrowing covenant on Council's investments, growth has recommenced in acquiring investments not aligned with fossil fuels. Council's portfolio reached its lowest point in August 2023 at 15% and as at 31 July 2024, the portfolio has increased to 47%.

Investment Policy Compliance

20 The below table identifies compliance with Council's Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the 'ethical' area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e., credit unions).

25

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

The investment portfolio is outlined in the table below by investment type for the period 1 July 2024 to 31 July 2024:

Investment policy compliance % should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	49%	Meets policy
A+ to A-	A1	60%	16%	Meets policy
BBB to NR	A2,NR	40%	35%	Meets policy

Dissection of Council Investment Portfolio as at 31 July 2024

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
70,000,000.00	Term Deposits	70,000,000.00	0.00
26,144,526.05	CBA Business Saver	26,144,526.05	0.00
547,015.10	CBA Business Saver – Tourism Infrastructure Grant	547,015.10	0.00
10,249,221.86	Macquarie Accelerator	10,249,221.86	0.00
7,350,000.00	Bonds/Floating Rate Notes	6,979,972.11	(370,027.89)
114,290,763.01	Total	113,920,735.12	(370,027.89)

- 5 Council's overall 'cash position' is not only measured by funds invested but also by the funds retained in its consolidated fund or bank account for operational purposes. The table below identifies Council's overall cash position for the month of July 2024 as follows:

Dissection of Council's Cash Position as at 31 July 2024

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	70,000,000.00	70,000,000.00	0.00
CBA Business Saver	26,144,526.05	26,144,526.05	0.00
CBA Business Saver – Tourism Infrastructure Grant	547,015.10	547,015.10	0.00
Macquarie Accelerator	10,249,221.86	10,249,221.86	0.00

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Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Bonds	7,350,000.00	6,979,972.11	(370,027.89)
Total Investment Portfolio	114,290,763.01	113,920,735.12	(370,027.89)
Cash at Bank			
Consolidated Fund	3,686,599.15	3,686,599.15	0.00
Total Cash at Bank	3,686,599.15	3,686,599.15	0.00
Total Cash Position	117,977,362.16	117,607,334.27	(370,027.89)

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.6	Maintain Council's cash flow

Legal/Statutory/Policy Considerations

5 In accordance with Section 212 of the *Local Government (General) Regulation 2021*, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies it has invested under section 625 of the *Local Government Act 1993*.

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

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

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

Financial Considerations

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

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.3 PLANNING – 10.2023.342.1 – Community Title Subdivision Comprising Fifteen Neighbourhood Lots and 1 Association Property – 409 Coorabell Road Coorabell

Directorate: Sustainable Environment and Economy

Report Author: Greg Smith, Team Leader Planning Services

File No: I2024/1209

Proposal:

DA No:	10.2023.342.1		
Planning Portal ref	PAN-368867		
Proposal description:	Community Title Subdivision Comprising Fifteen Neighbourhood Lots and 1 Association Property		
Property description:	LOT: 8 DP: 1163687		
	409 Coorabell Road COORABELL		
Parcel No/s:	241401		
Applicant:	NEWTON DENNY CHAPELLE PTY LTD		
Owner:	Mr P & Mrs J L & Mr N J De Heer & Others		
Zoning:	C2 Environmental Conservation / RU2 Rural Landscape / 1(a) (General Rural Zone)		
Date received:	18 September 2023		
Integrated / Designated Development:	<input checked="" type="checkbox"/> Integrated	<input type="checkbox"/> Designated	<input type="checkbox"/> Not applicable
Concurrence required	No		
Public notification or exhibition:	– Level 2 advertising under Council’s Community Participation Plan. – Exhibition period: 27/9/2023 to 11/10/2023 – Submissions received: 2		

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	– Submissions acknowledged: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A				
Concurrent approvals included with DA	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> W & S (68)	<input type="checkbox"/> OSMS (68)	<input type="checkbox"/> ST (68)	<input type="checkbox"/> RA (138)
	Other:				
Planning Review Committee	Not applicable				
Variation request to Development Standards under an EPI (eg clause 4.6)	Not applicable				
Estimated cost	\$15,000.00				
Issues	Bush Fire Prone Land High Environmental Value Vegetation Public submissions (2)				

Summary:

The DA proposes Community Title Subdivision Comprising Fifteen Neighbourhood Lots and 1 Association Property. The proposed subdivision appropriately responds to the previous multiple occupancy approvals, and also the issues raised in the 2 public submissions subject to conditions.





The proposed development is satisfactory having regard to the relevant environmental planning instruments and planning controls applicable to the site. The proposal raises no significant issues in terms of environmental impacts which cannot be managed. The site is an appropriately serviced, unconstrained property and is considered suitable for the proposed development.

The application appropriately addresses the relevant constraints applying to the site, and is recommended for approval subject to the conditions listed in **Attachment 1** to this Report.

NOTE TO COUNCILLORS:

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

RECOMMENDATION:

- 5 **That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2023.342.1 for Community Title Subdivision Comprising Fifteen Neighbourhood Lots and 1 Association Property, be granted consent subject to the conditions of approval in Attachment 1 to this Report (E2024/98437).**
- 10 **Attachments:**
- 1 10.2023.342.1 - Recommended Conditions, E2024/98437 
 - 2 10.2023.342.1 - Plans for Approval, E2024/98439 
 - 3 10.2023.342.1 - Vegetation Management Plan, E2024/98438 
 - 15 4 10.2023.342.1 - Redacted Submissions, E2024/98444 

Assessment:

INTRODUCTION

History/Background

10.2014.327.1 Development Application	Rural landsharing community (Multiple Occupancy) consisting of	APPR	27/01/2015
10.2020.442.1 Development Application	Additional Five (5) Dwelling Sites for Existing Rural Landsharing	APPR	04/02/2022
10.2023.342.1 Development Application	Community Title Subdivision Comprising Fifteen Neighbourhood Lots and	Pending	
11.2014.327.1 Construction Certificate	Roadworks (Spine Road), Drainage, Retaining Walls and Earthworks for	APPR	17/03/2021

- 5 In terms of the above history the property has approval for a 15 dwelling Multiple Occupancy with DA10.2014.327.1 approving 10 dwelling sites and DA10.2023.342.1 approving a further 5 dwelling sites to the property. At present there are two historical dwellings on the land approved under BA78/2284 and BA80/2237.

Description of the proposed development

- 10 This application seeks approval for Community Title Subdivision Comprising Fifteen Neighbourhood Lots and 1 Association Property. The DA provides some further descriptive details on the proposal as follows:

3.1.1 Development Objectives

The following site planning objectives have been adopted for the purposes of the staged Development Application:

- Provide a form of ownership that allows all the owners to enjoy and share equally in the value of the restored bushland on the property and to use their collective resources to ensure the ongoing conservation of the land;
- Provide a development that conforms to Ecologically Sustainable Development Principles;
- Ensure the parameters and requirements of the existing development consents are adopted and embraced; and
- Carry out development in a manner which does not impact adversely on surrounding land.

3.1.2 Community Title Subdivision

Development Consent is sought to create sixteen (16) community title lots (inclusive of a neighbourhood lot) over the existing approved dwelling sites under Development Application 10.2020.442.1 on the land. The remainder of the land will be neighbourhood property and will continue to be used principally for the revegetation of the land. The proposed community title lots are detailed within **Table 4** below.

Table 4: Proposed Community Title Lots

Community Title Subdivision	MO Dwelling Site	Lot Area (ha)
Lot 1 (Common Land)	NA	22.92
Lot 2	A1	1.851
Lot 3	A2	1.813
Lot 4	A3	1.024
Lot 5	B1	0.9446
Lot 6	B2	1.05
Lot 7	B3	1.30
Lot 8	C1	0.9753
Lot 9	C2	0.7491
Lot 10	D3	0.2701
Lot 11	D1	1.868
Lot 12	D2	0.8624
Lot 13	E1	0.8041
Lot 14	E2	1.622
Lot 15	E3	2.321
Lot 16	Existing Dwelling	4.478

Dwelling Sites

Through the completion of the detailed civil design plans and associated ecological review of the approved works, there are some minor changes to the layout of the approved Multiple Occupancy, as outlined below:

- Dwelling Site A4 (Lot 14) altered location
- Dwelling Site B1 (Lot 9) altered location
- Dwelling Site C1 (Lot 11) altered location
- Internal road alignment (servicing Cluster A reduced in length & following existing driveway between Clusters B & C)

In this regard, should the application be approved, Council is requested to impose conditions of consent requiring the modifications, in accordance with section 4.17(1)(b) of the Environmental Planning and Assessment Act 1979 and clause 97 of the Environmental Planning and Assessment Regulation 2000.

Newton Denny Chapelle **Plan 2** illustrates the proposed layout of the community over the existing approved layout. This includes the dwelling sites that make up the rural living component. The proposed additional 15 dwelling sites are located within four (4) clusters and all are located on the western side of Coorabell Road. The 14 new dwelling sites have been designed and positioned to comply with the findings of our land capability assessment and design process.

Each of the dwelling sites has an area suitable for the construction of a dwelling with outdoor space for amenity and recreation.

Each site will have access to the internal road system via a suitable driveway as depicted in the attached engineering plans contained within **Attachment 7** of this report.

Each of the dwelling sites will have a Home Improvement Area (HIA) (custodian area) which will be maintained by each of the households as a private garden and home.

Newton Denny Chapelle **Plan 3** illustrates the proposed community title subdivision of the subject land.

No works outside those approved under DA 10.2020.442.1 and DA 10.2014.327.1. and illustrated on **Plan 3** are required to achieve the community title subdivision.

Neighbourhood Lot

Plan 3 depicts the neighbourhood management lot for the incoming community. Community land makes up the majority of the land on the site, with the exception of land within the rural living management zone. The primary access road and other essential services will be contained within an infrastructure corridor that is to be maintained by the community. Other shared spaces including parkland, walking tracks and community gardens will also be located on community land.

It is proposed that an area be dedicated to the creation of regeneration works and community gardens with shared-access and facilities.

The community land also includes those areas designated as Habitat, Agriculture and Community/Infrastructure. Management of community land will be undertaken by the community members residing in the rural dwellings in accordance with the developed Rural Landsharing Management Plan.

The assigned habitat zone is included within the areas targeted for ecological repair and enhancement works (see **Attachment 3** - Vegetation Management Plan). The aim is to restore ecological function to the site in a targeted manner, and to achieve best outcomes for existing values while creating additional values. The proposed habitat areas align well with Council's mapped HEV and ecological values mapping, as well as the designated C-zoned land areas.

- 5 The details shown in Table 4 have changed as a result of the adjusted proposed Lot boundaries, as shown in the Subdivision Comparison and Subdivision Layout plans that are recommended for approval by this Report. The plans of the subdivision and Vegetation Management Plan which are recommended for approval are included as **Attachment 2** and **Attachment 3** of this Report, respectively.

Description of the site

A site inspection was carried out on 6 October 2023.

Land is legally described	LOT: 8 DP: 1163687
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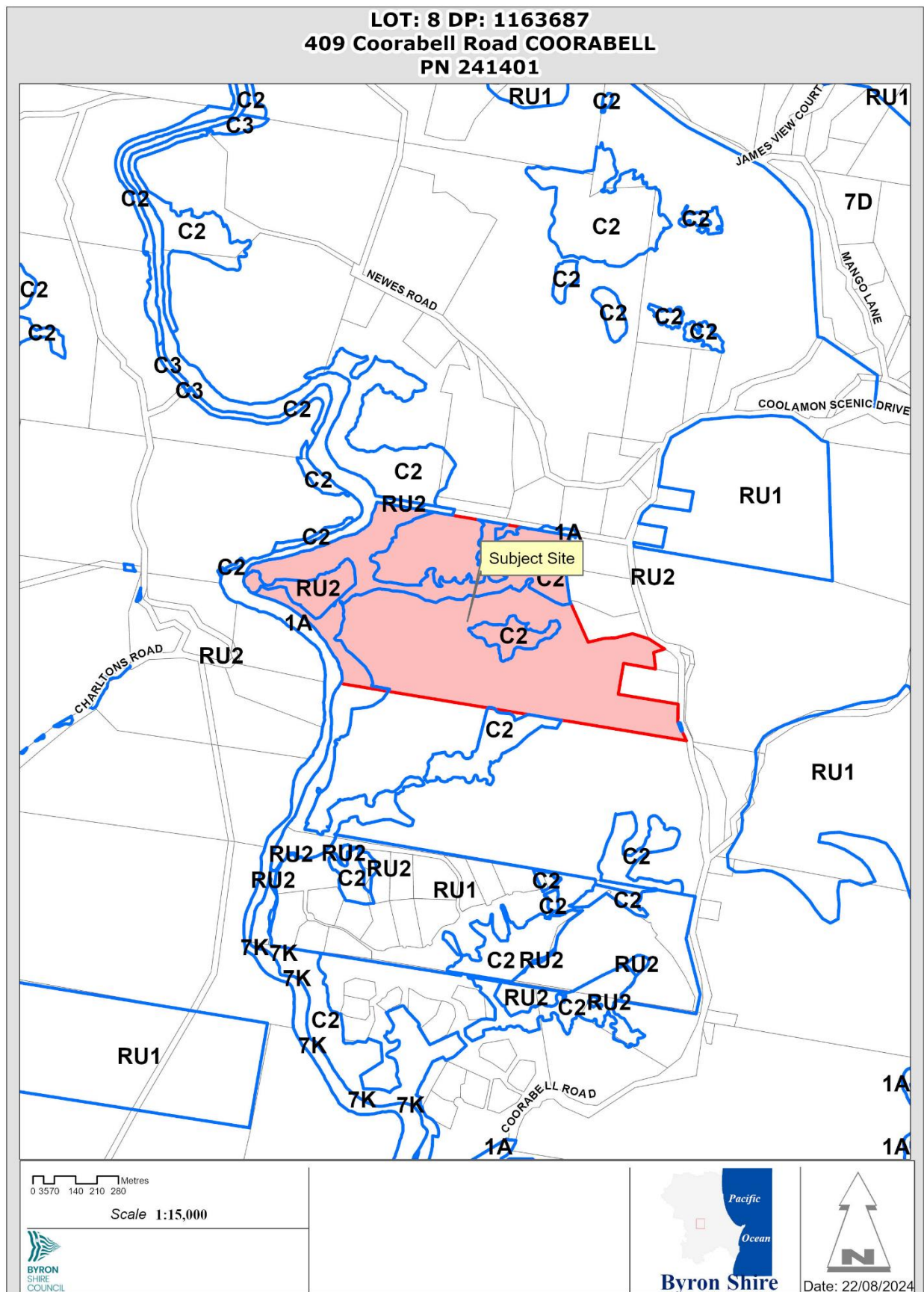
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Property address	409 Coorabell Road COORABELL		
Land is zoned:	C2 Environmental Conservation RU2 Rural Landscape 1(a) (General Rural Zone)		
Land area is:	59.1 hectares		
Property is constrained by:	Bush Fire Prone Land High Environmental Value Vegetation		
	Is a BDAR required due to the location of the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Are there any easements in favour of Council affecting the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Is there a Vegetation Management Plan which might affect the proposal?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

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SUMMARY OF REFERRALS

Referral	Issue
Environmental Health Officer	No objections subject to conditions.
Development Engineer	No objections subject to conditions.
S7.11 / Contributions Planner	No objections subject to conditions.
Ecologist	No objections subject to recommended condition 1 including the Vegetation Management Statement.
Rural Fire Service (100B)	No objections subject to the General Terms of Approval and Bush Fire Safety Authority included in the Recommendation of this Report below.

SECTION 4.14 – BUSH FIRE PRONE LAND

- 5 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 and subdivision of bush fire prone land that is capable of being used for residential purposes is integrated development. The NSW RFS has issued its General Terms of Approval and Bush Fire Safety Authority and these are included in the recommendation of this Report below.
- 10 **Effect of 10/50 rule on significant vegetation:** No objections have been raised by Council’s Ecologist in response to the likely impacts of the 10/50 Code.

SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

- 15 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)

Considerations	Satisfactory	Unsatisfactory
<p><i>Biodiversity and Conservation SEPP 2021</i></p> <p>Consideration: No objections have been raised by Council’s Ecologist in relation to the provisions of the Biodiversity and Conservation SEPP.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><i>Resilience and Hazards SEPP 2021</i></p> <p>Consideration: Council’s Environmental Health Officer advises as follows in relation to potential for contamination:</p> <p>“SEPP55 was considered for 10.2015.327.1 & 10.2020.442.1. See comments below extracted from 10.2020.442.1:</p> <p>Information provided by the current land owner Mr. Peter De Heer contained in a Statutory Declaration dated 6 June</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Considerations	Satisfactory	Unsatisfactory
<p>2014 indicates that past activities undertaken on the property, in particular in proximity to the proposed building envelopes comprise dairy farm activities. Cattle dipping was not undertaken on the subject site. <i>Kennell Cattle Dip</i> (capped in 1988) is located approximately 600 metres from the northern property boundary. Mr De Heer indicates that no bananas were grown on the site.</p> <p>Council's records indicate that a 'packing shed' was approved under BA77/2250 (file associated with parent parcels 157750 & 175560). Further investigation identifies the packing shed as the large barn located at the intersection of two access roads. Council's records indicated that the use of the packing shed was for activities associated with orchard fruit, beekeeping, and wool.</p> <p>No significant observable point sources such as drums, wastes, rubbish or unusual odours, or yellowing of vegetation were observed during site inspection undertaken on 11/7/2014 and 29/03/2021. No further information is required, the site is considered to be suitable for the intended development."</p>		
<p><i>Transport and Infrastructure SEPP 2021</i></p> <p>Consideration: The proposal is satisfactory having regard to the provisions of the Transport and Infrastructure SEPP.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.2A 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.

- 5 In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:
- (a) The proposed development is defined as subdivision of land;
 - (b) In relation to LEP 2014, the land is within the C2 Environmental Conservation and RU2 Rural Landscape Zones according to the Land Zoning Map;
 - (c) The proposed development is permitted with consent; and
- 10 (d) Regard is had for the Zone Objectives as follows:

C2 Zone Objective	Consideration
<i>To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.</i>	The proposal appropriate protects, manages and restores, to the extent necessary having regard to advice from Council's areas of expertise, areas of high ecological, scientific, cultural or aesthetic values of the locality.
<i>To prevent development that could destroy, damage or otherwise have an adverse effect on those values.</i>	The proposal minimises the extent of destruction, damage or adverse effects on these values.
No dwelling sites are located in the C2 Zone	

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RU2 Zone Objective	Consideration
<i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i>	The proposal is not expected to have a significantly adverse impact on any sustainable primary industry production or the natural resource base of the locality.
<i>To maintain the rural landscape character of the land.</i>	The proposal appropriately maintains the rural landscape character of the land having regard to the multiple occupancy approvals which have already been granted.
<i>To provide for a range of compatible land uses, including extensive agriculture.</i>	The proposal supports the multiple occupancy usage and fits into the range of compatible land uses, including extensive agriculture.
<i>To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.</i>	The proposal does not diminish the extent to which tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality can be provided.
<i>To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.</i>	The proposal will not have a significant impact on any significant scenic landscapes and appropriately minimises impacts on the scenic quality of the locality.

The proposed development complies with all clauses of LEP 2014 (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

Clause 4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments

- 5 The subject property contains an existing approved Multiple Occupancy with conditions of consent complied with as per DA10.2014.327.1 in relation to the upgrade of the onsite sewage management system for the existing dwelling under Condition 25, whilst the property is also mapped under Byron LEP 2014 as an MO/ CT site. The number of lots proposed for residential purposes equates to the 15 dwelling sites approved for the MO, with a residual lot proposed as an
- 10 Association lot for common purposes (vegetation management and the like)
- Appropriate management measures are in place that will ensure the protection and enhancement of the landscape, biodiversity and rural setting of the land – the application is accompanied by documents including for example the draft Neighbourhood Management Statement, Vegetation Management Plan with additional supporting Ecological Information, Water Management Plan and
- 15 Wastewater Management Plan which, to the satisfaction of relevant areas of expertise, ensure appropriate protection and enhancement of the landscape, biodiversity and rural setting of the land, subject to conditions.
- It is considered improved social and economic outcomes can be achieved, with the proposed subdivision supporting an already approved multiple occupancy development without causing any
- 20 significantly adverse social and economic outcomes for the locality. Appropriate mitigation measures are in place to minimise land use conflicts, with existing agricultural and other rural land uses being undertaken on the land or neighbouring land, that may arise from further development on the land, noting the subdivision will provide title to 15 approved residential dwelling sites.

Clause 6.2 Earthworks,

- 25 the proposal is unlikely to have a significant impact in relation to the:
- (a) disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

- (b) the effect of the development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or soil to be excavated,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - 5 (f) the likelihood of disturbing relics,
 - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, and
 - (h) employment of appropriate measures through conditions to minimise the impacts of the development.
- 10 Appropriate conditions of consent are recommended in relation to the installation of sedimentation and erosion controls, disturbance of relics and the use of clean fill only. It is considered the proposal won't have an adverse impact on the locality, drainage lines, watercourses and the drinking water catchment or environmentally significant areas.

Clause 6.5 Drinking water catchments:

- 15 The development is designed and sited to manage and minimise any significant adverse impact on water quality and flows. Effluent disposal for future dwellings will need to be designed in accordance with Councils requirements, whilst appropriate measures are to be installed to control sediment and erosion

Clause 6.6 Essential services:

- 20 The site has suitable vehicle access to and from Coorabel Road, with power and telecommunications available to service the development. Water is to be harvested from the roofs of dwellings whilst effluent will need to be disposed of onsite in accordance with Councils requirement for residential development not connected to reticulated sewer.

4.2B Byron Local Environmental Plan 1988 (LEP 1988)

- 25 There appears to be a small area of land of approximately 200m² is still zoned 1(a) rural adjacent to Coorabell Road which encompasses the driveway into the property. This is something of an anomaly as to how it has not been incorporated into the BLEP 2014 through the E Zone reviews to date. The 1(a) Zone portion is to remain within the larger common property parcel known as Lot 1, and as it is not to be subdivided or fragmented further, it is considered that the proposal does not
- 30 breach any planning controls within Byron LEP 1988.

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

There are no proposed instruments of significant applicability to the proposed development.

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

- 35 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.

- The proposed development is demonstrated to meet the relevant Objectives of all relevant Parts/Chapters (in some cases subject to conditions and/or to the satisfaction of other assessing officers).
- 40

In relation to **Chapter B1: Biodiversity**, Council's Ecologist raised no objection to the proposal, including approval of the submitted Vegetation Management Plan.

In relation to **Chapter B3: Services**:

- (a) the future dwellings are able to be provided with an on-site water supply,

- (b) the site is serviced by the electricity grid,
- (c) Council's Environmental Health Officer raises no concerns in relation to the suitability of the site for the on-site disposal and management of sewage, noting that the multiple occupancies approved for the site have already taken this into consideration
- 5 (d) stormwater drainage is able to be provided, and
- (e) suitable vehicular access is proposed to the satisfaction of Council's Development Engineer, subject to conditions.

In relation to **Chapter B4: Traffic Planning, Vehicle Parking and Circulation**, Council's Development Engineer raises no objection to the proposal subject to upgrade road / access driveway conditions.

In relation to **Chapter B6: Buffers and Minimising Land Use Conflict**, Council's Environmental Health Officer raises no objection to the proposal in relation to potential for land use conflicts, noting previous approvals for multiple occupy development on this site are already in place.

In relation to **Chapter B8: Waste Minimisation and Management**, Council's Development Engineer raises no objection to the proposed garbage truck access and turnaround (Diagram B mentioned above), and a condition is recommended in relation to the Neighbourhood Management Statement in this regard.

In relation to **Chapter C4: Drinking Water Catchment**, the proposal is satisfactory as mentioned above in relation to impact on the quality and quantity of water including measures to protect the water catchment by way of recommended consent conditions.

In relation to **D2.8 Community Title Development of Rural Land**, Council's Ecologist has raised no objection to the proposal subject to approval of the submitted vegetation management plan.

D6 Subdivision

In relation to **D6.3.5 Rural Community Title Subdivision**:

1. The number of lots resulting from the proposed subdivision (being a conversion of existing approved multiple occupancies to rural community title subdivision) equals the number of approved house sites (excluding the neighbourhood lot/common land) identified in the multiple occupancy approvals, being 15 in each case.

2. Consent may be granted to this development application the following has been considered by Council:

a) the submitted water management plan (E2023/93433) – Council's DCP requires that rural dwellings without reticulated water are to have a minimum domestic tank capacity of 40,000 litres and that in bushfire prone areas additional water dedicated for fire fighting purposes is to be provided. These provisions would be a consideration in the assessment of any DA for a dwelling-house on one of the proposed lots. A condition is recommended requiring that the Management Statement must include measures for first flush or bypass devices for rainwater tanks used for domestic / residential purposes with a minimum supply of 40,000 litres for each dwelling house excluding bushfire requirements.

b) the submitted on-site sewage management plan (E2023/93432) – no objections have been raised by Council's Environmental Health Officer subject to conditions;

c) the submitted Neighbourhood Management Statement for waste management (E2023/93426) – Council's Development Engineer confirms the following in this regard: *"The proposed collection of refuse is within the front section of the site. The site contours confirms that the grade is less than 16%, therefore complies with the grade requirement in Chapter B8 of DCP 2014. There are no safety issues identified because the collection of refuse is solely within the site. The proposal is supported."* Also refer to Diagram B on the Subdivision Comparison Plan. A condition is recommended requiring that the

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Management Statement must specify (a) how residents will manage transportation of waste from individual properties to the communal Bin Storage Area in the location shown on the approved plan (Diagram B), (b) responsibilities for keeping the waste collection area clean and presentation of bins on collection day on site and (c) specify the requirements for all residents to sign an indemnity agreement allowing access for the council collection service provider;

d) the submitted vegetation management plan and planting requirements (E2023/95872 and E2024/18032) – no objections have been raised by Council's Ecologist.

Recommended condition 1 includes the approved Vegetation Management Plan. The Neighbourhood Management Statement By-law 12.3 of the Neighbourhood Management Statement in conjunction with By-law 24 include provisions relating to responsibilities of the Executive Committee and Neighbourhood Lot proprietors in relation to the Vegetation Management Plan;

e) the submitted bushfire management plan, resulting in the RFS General Terms of Approval and Bush Fire Safety Authority (E2024/30625);

f) measures to address the unauthorised / unapproved illegal construction and occupation of dwelling houses was actually addressed in the assessment of principally the first prior multiple occupancy application. A condition is included in the Recommendation of this report below requiring that the subdivision certificate must not be issued unless the Community Office / Centre approved in accordance with the consent to Development Application No. 10.2014.327.1 has been completed in accordance with that consent and an Occupation Certificate has been issued;

g) a draft neighbourhood management statement consistent with the Community Land Development Act 1989, including but not limited to the following:

i) provision for bushfire management – refer to by-laws in 23;

ii) a prohibition on domestic cats and dogs or provisions providing for their management – refer to by-laws in 19;

iii) provision for environmental repair and enhancement – refer for example to by-laws in 18, 24 and others;

iv) provision for waste management – refer for example to by-laws in 8 and 16;

v) provision for water management - A condition is recommended requiring that the Management Statement must include measures for first flush or bypass devices for rainwater tanks used for domestic / residential purposes with a minimum supply of 40,000 litres for each dwelling house excluding bushfire requirements;

vi) provision for on-site sewage management – refer for example to the by-laws in 16;

vii) provision for design and construction of any new dwellings – this is actually considered to be more appropriately assessed at the time when a new dwelling is proposed, against relevant policy provisions;

viii) provision for safe vehicular access and driveways in accordance with Northern Rivers Development and Design Manual – Council's Development Engineer has raised no objection to the proposal subject to conditions.

3. No credits have been given as there are no nominated vegetation management works that have been completed previously as part of a development application.

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

The proposal raises no issues under DCP 2010.

4.5 Environmental Planning and Assessment Regulation 2021 considerations

Environmental Planning and Assessment Regulations 2021	Applicable to the proposal:	Considered the control as it relates to the proposal:	If this control is applicable, does the proposal comply?
Section 61 - Additional matters that consent authority must consider	<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 62 - Consideration of fire safety	<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 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

5 4.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

4.6.1

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

4.6.2 Marine Estate Management Act 2014

- 10 Considering the properties location in the hinterland, the development is unlikely to have an effect on the plants or animals within the Cape Byron Marine Park or their habitat.

4.6.3 Council Policies applicable to the proposed development?

Council Policy	Consideration
Management of Contaminated Land Policy	No objections have been raised by Council's Environmental Health Officer in relation to potential for contamination.

4.7 The suitability of the site for the development

Noting the property has recently been approved for 15 dwelling Multiple Occupancy, being relatively unconstrained, with suitable road access, the site is considered suitable for the proposed development, subject to conditions of consent.

4.8 Submissions made in accordance with this Act or the regulations

The development application was publicly exhibited.

There were 2 submissions made on the development application included as **Attachment 4** to this Report, with the main issue regarding the location of the dwelling envelopes on Lots 13 and 14 being inconsistent with MO Approved dwelling sites A3 and A4.

Specifically, we object to the inclusion of Lots 13 & 14 in this development.

By including these lots, and therefore the possibility of dwellings being built on Lots 13 & 14, it appears that the applicant is seeking to overturn or completely ignore the previous decision made by the Byron Shire Council for DA 10.2020.442.1.

On this occasion in February 2022 the consent was granted for a Multiple Occupancy on the basis that two of the proposed dwelling sites (F1 & F2 on the original plan) (Later renamed A3 & A4 on the amended plan) were relocated back over the other side of the hill that is directly behind and adjacent to our properties.

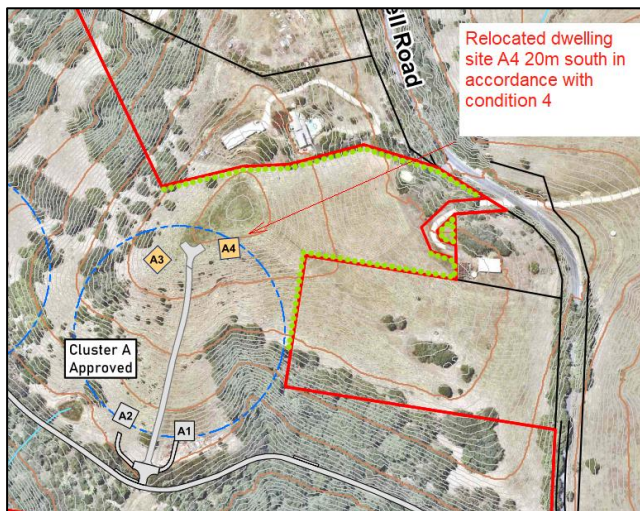
If approved, Lots 13 & 14 again make it possible for dwellings to be built in essentially the same position as F1 & F2 on the original plan. Therefore, we would reasonably expect that the Council would uphold their previous determination and not allow this to occur.

Our concern & also that of our neighbours is the close proximity of Lots 13 & 14, and therefore the impact, both aesthetically and environmentally, on the peaceful rural lifestyle we had hoped to enjoy during our retirement years.

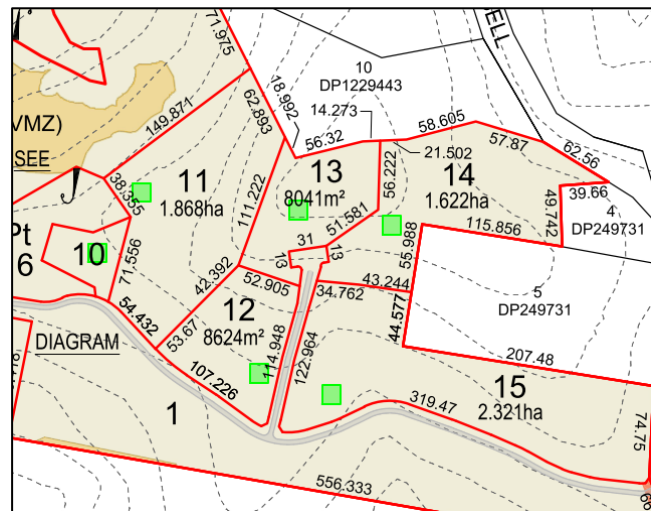
The road itself, required to access Lots 13 & 14, would be a blight on the natural landscape that we all currently enjoy. It would change the whole character of the surrounding countryside.

Comment:

With reference to the highest point of the site, the indicative building envelopes on proposed Lots 13 and 14 as originally applied for under this DA were contrary to the approved locations under the multiple occupancy approval (sites A3 and A4, respectively). eg.

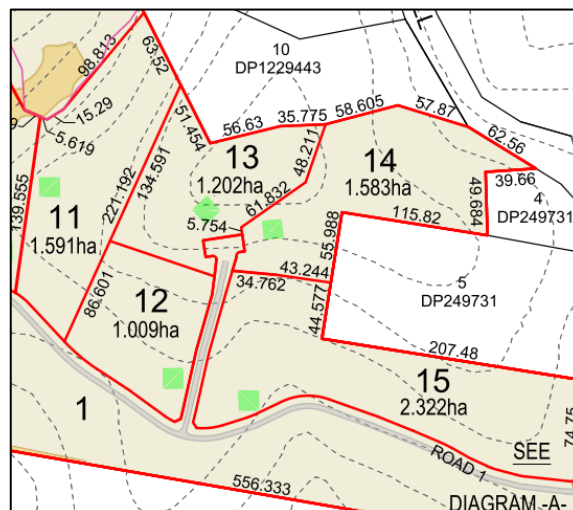


DA 10.2020.442.1 approved plan



DA 10.2023.342.1 originally submitted plan

The location of the proposed indicative building envelopes for Lots 13 and 14 under the subdivision have been improved with reference to the approved multiple occupancy plans as follows.



A condition is recommended requiring that a Section 88B Instrument and one (1) copy are to be submitted with the application for a subdivision certificate, and that the final plan of subdivision and accompanying Section 88B Instrument are to provide for restrictions to limit the erection of dwellings to within the nominated indicative building envelopes for Lots 13 and 14 only as indicated on the approved Subdivision Comparison and Subdivision Layout plans, except as otherwise approved by Council.

4.9 Public interest

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

DEVELOPER CONTRIBUTIONS

5 5.1 Water & Sewer Levies

No Section 64 levies will be required.

5.2 Developer Contributions

Section 7.11 Contributions will be payable.

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"/>

10 CONCLUSION

The DA proposes Community Title Subdivision Comprising Fifteen Neighbourhood Lots and 1 Association Property. The proposed development is satisfactory having regard to the relevant environmental planning instruments and planning controls applicable to the site. The proposal raises no significant issues in terms of environmental impacts which cannot be managed. The site is an appropriately serviced, unconstrained property and is considered suitable for the proposed development. The application is recommended for approval subject to conditions of consent.

**Report No. 13.4 PLANNING - Section 4.55 10.2021.511.3
Modification to the eastern dwelling and
swimming pool component of an approved
dual occupancy at 865 Broken Head Road,
Broken Head**

Directorate: Sustainable Environment and Economy

Report Author: Patricia Docherty, Team Leader Planning Services -
Commercial Industrial & Tourism

File No: I2024/1211

Proposal:

Modification No: 10.2021.511.3

Proposed modification: Modification to the eastern dwelling and swimming pool component
of an approved dual occupancy

Original Development: Dual occupancy (detached) and Swimming Pool

Type of modification sought: 4.55(2) Other modifications

Property description: LOT: 8 DP: 840653

865 Broken Head Road BROKEN HEAD

Parcel No/s: 200460

Applicant: Town Planning Studio Pty Ltd

Owner: CHLH Management Pty Ltd

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Zoning:	Byron LEP 2014 RU2 Rural Landscape / PART C2 Environmental Conservation Byron LEP 1988 Part 7D Scenic Escarpment Zone/ Part 7K (Habitat) Zone Both dwellings are located entirely within the RU2 Rural Landscape zone.
Date received:	14 June 2024
Original DA determination date:	11 August 2022
Integrated Development:	No
Public notification or exhibition:	<ul style="list-style-type: none">– Level 2 advertising under the Byron Shire Council Community Participation Plan.– Exhibition period: 25 June 2024 - 8 July 2024– Submissions received: none
Planning Review Committee:	At the time of assessment, no planning review committee is scheduled until after the 2024 Local Government Elections. Modification 10.2023.511.3 is being presented to Council for consideration in the first instance, to minimise any avoidable delays to determination.
Delegation to determination:	Council
Issues:	No issues of significance that are not addressed by conditions of consent.

Summary:

An application has been received to modify the design of the eastern dwelling and swimming pool component of an approved dual occupancy.

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Part of the eastern dwelling was split between Byron LEP 1988 and Byron LEP 2014 zoning when the original application was approved for a dual occupancy (detached) and swimming pool. The original application required a variation to the development standard Clause 40 Height under Byron LEP 1988. The floor of the topmost floor level of the building exceeded 4.5 metres above the existing ground level and the variation exceeded 10% so could not be determined under staff delegation. The LEP has since been amended and the dwellings are entirely located in the LEP 2014 RU2 Rural Landscape Zone with a 9 metre height limit. The dwelling does not exceed the height limit applicable under Clause 4.3 of Byron LEP 2014 and the variation to a development standard is no longer required.

The modification application is required to be determined by Council because the original development application was approved by Council and there has been no available Planning Review Committee agenda meeting to allow for the application to be considered under staff delegation.

The application includes revised development plans prepared by Harley Graham and Associates enclosed in Attachment 1 of this report. The modification application was also supported by updated Bushfire and Flora & Fauna Assessment Reports. The reports support the original application assessment to provide compensatory planting and restoration via a condition to prepare a Biodiversity Conservation Management Plan in accordance with Chapter B1 Biodiversity of Byron DCP 2014. A recommendation to include increased restoration and compensatory planting is detailed in an amendment to the existing condition.

The application includes sufficient information to demonstrate that the modification is substantially the same development as that originally approved. The proposed modified conditions to be modified in accordance with the recommendation of this report are enclosed at Attachment 2. A copy of the existing conditions is enclosed at Attachment 3 for reference.

The proposal is satisfactory having regard to relevant matters for consideration and the section 4.55 application is recommended for approval subject to modifying the current conditions of consent as listed in the Recommendation of this Report below.




NOTE TO COUNCILLORS:

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

RECOMMENDATION:

That pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Application No. 10.2021.511.3 for Modification to the eastern dwelling and swimming pool component of an approved dual occupancy detailed on the architectural plans in Attachment 1 (E2024/60566) of this report, be approved by modifying conditions numbered 1, 5, 6, 15, 17 and 63, under Development consent number 10.2021.511.1, as indicated in Attachment 2 (E2024/99059) of this report.

Attachments:

- 1 DA 10.2021.511.3 - Architectural Plans, E2024/60566 
- 2 DA 10.2021.511.3 - Recommended Amended Conditions of Consent, E2024/99059 
- 3 DA 10.2021.511.3 Current Conditions to be Modified, E2024/99948 

13.4



Assessment:

1. INTRODUCTION

1.1. History/Background

- 5 Development Approvals:
- 6.1982.2049.1 – Dwelling
- 5.1991.467.1 – Miscellaneous (withdrawn)
- 5.1993.409.1 – Subdivision, Approved 15/03/1994
- 5.1997.107.1 – Dwelling and Demolition of Existing Dwelling (withdrawn)
- 10 5.1997.375.1 – Dwelling and Demolition Existing Dwelling, Approved 19/11/1997
- 6.1997.2459.1 – BA Dwelling, Approved 26/03/1998
- 16.2003.101.1 – Swimming Pool, Approved 29/07/2003
- 10.2009.442.1 – Securing of Dwelling from Pool and Removal of Pool Fencing, Approved 23/10/2009
- 15 10.2020.325.1 – Cabana, Approved 14/08/2020
- 10.2021.511.1 – Dual occupancy (detached) and Swimming Pool, Approved 11/08/2022
- 10.2021.511.2 - S4.55 to Delete Condition 26(f) relating to Removal of Bamboo Plantings adjacent to the Northern Property Boundary, Approved under staff delegation 1/3/2023 (Note. Planning Review Committee held on 1 December 2022 - Delegated to Staff. Council Resolution 22-706 Resolved that Council endorses the outcomes of the Planning Review Committee meeting held on 1 December 2022.)
- 20 Council approved a part road closure at a meeting of Council on 23 November 2023 Report No 13.18 - Part Road Reserve Closure and sale adjoining Lot 8 DP 840653, 865 Broken Head Road, Broken Head NSW - RESOLUTION NUMBER:23-546
- 25 The demolition of the dwelling approved under DA 6.1997.2459.1 has already been undertaken. The applicant has provided evidence of commencement of DA 6.1997.2459.1. This approval will be surrendered, and a condition of consent is recommended to require this.

1.2. Description of the proposed development

- 30 This application seeks approval for a modification to the eastern dwelling and swimming pool component of an approved dual occupancy. It is proposed to modify the approved plans of the development to accommodate the following changes to the eastern dwelling. No changes are proposed to the western dwelling:

Lower Floor Level

- Reduce the area of the gym and reposition to the north-west.
- Separate the plant room from the gym.
- Add a storage room adjacent to the plant room.
- 5 • Provide a single flight staircase to the level above.
- Reposition water tanks.

Ground Floor Level

- Add a 3 x bay carport to the eastern side of the driveway area.
- 10 • Reconfigure and reduce the 3 x bedroom spaces on the eastern side of the dwelling to provide 2 x bedrooms with ensuites.
- Relocate a bedroom from the eastern to the western side of the dwelling and add an adjacent studio space.
- Relocate the laundry to the northern side of Bedroom 4.
- Change the square set staircase leading to the first floor level to a circular staircase.
- 15 • Reconfigure and condense the entry, kitchen, pantry, dining and living areas.
- Relocate the swimming pool and spa from the eastern to the southern side of the dwelling. - Reconfigure the outdoor living areas. First Floor Level
- Reconfigure the master bedroom, ensuite, robe and adjacent deck areas.
- Add a roof terrace above the north-western bedroom and studio space.
- 20 • Elevations Provide a mix of rendered block, stone cladding, metal mesh and timber cladding to the external wall finishes.
- Add tile finishes to components of the roof.
- Add a small, pitched roof above the first floor level.
- Alterations to window sizes and positions.
- 25 • Addition of arches to the southern elevation.

The application includes revised development plans prepared by Harley Graham and Associates enclosed in Attachment A of this report. The modified development was also supported by updated Bush Fire and Flora & Fauna Assessment Reports.

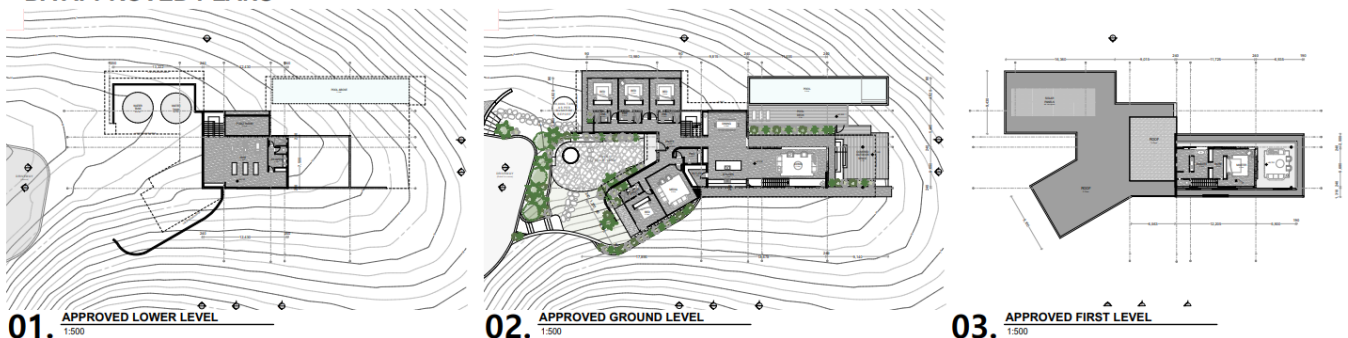
- 30 The proposal includes considerations to demonstrate that the modification is substantially the same development as that originally approved:

- Does not change the land use approval as nominated within the development consent, being 'Dual Occupancy (Detached) and Swimming Pool'.
- Maintains the same number of dwellings (2) that has been approved.
- Makes no changes to the western dwelling- affects only the eastern dwelling.
- 35 • Does not increase the number of storeys within the development.
- The proposed modification has been designed to meet the maximum overall height limit of 9.0 metres prescribed within Clause 4.3.
- Adds a single bedroom to the eastern dwelling (taking the total number of bedrooms within the dual occupancy development from 7 to 8).
- 40 • Increases the total gross floor area of the approved development by only 31%, noting there is no floor space controls applicable to the site.

- Changes to the eastern dwelling generally sit within the same building footprint and have a very similar spatial arrangement for bedroom and living spaces.
- Changes that are proposed to bedroom numbers and gross floor area will not be discernible from outside the property.
- Will not result in any visual impacts from adjacent properties or public spaces.
- Will not change the relationship to surrounding properties as the modifications will maintain the character of the original approval.

The comparison plans in Figures 1 to 3, provided within the Architectural plans indicate that the built form of the modified development is substantially the same as that originally approved.

DA APPROVED PLANS



PROPOSED SECTION 4.55

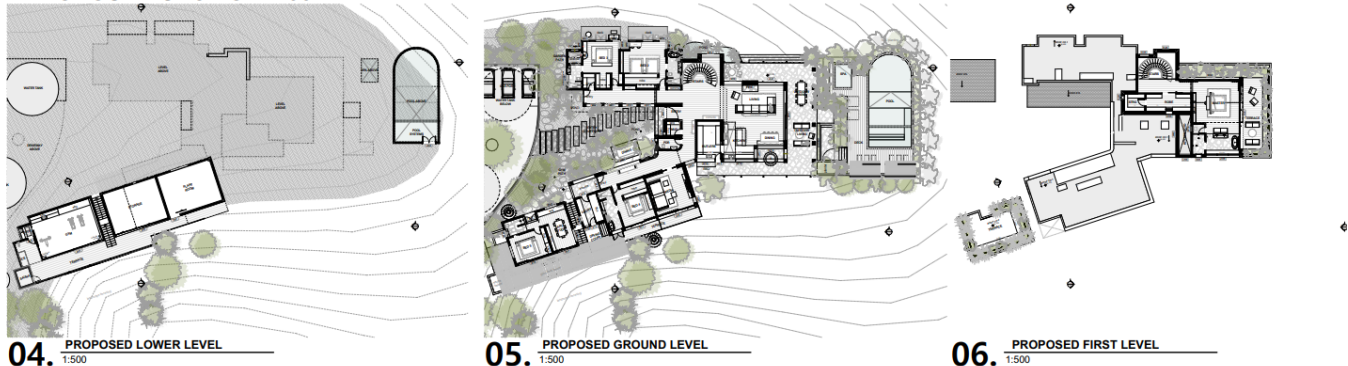
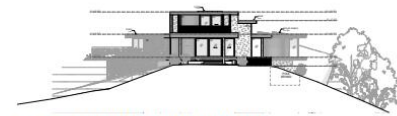
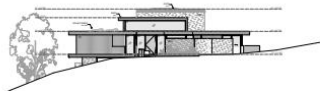


Figure 1: Plans comparing approved with proposed modification

DA APPROVED ELEVATIONS



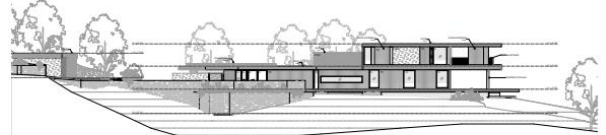
01. APPROVED SOUTH ELEVATION
1:500



03. APPROVED NORTH ELEVATION
1:500



02. APPROVED EAST ELEVATION
1:500

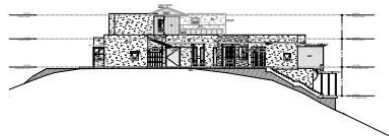


04. APPROVED WEST ELEVATION
1:500

PROPOSED SECTION 4.55



05. PROPOSED SOUTH ELEVATION
1:500



07. PROPOSED NORTH ELEVATION
1:500



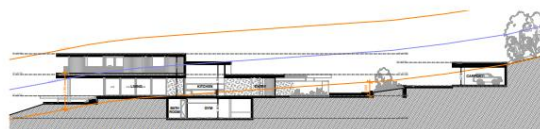
06. PROPOSED EAST ELEVATION
1:500



08. PROPOSED WEST ELEVATION
1:500

Figure 2: Elevations comparing approved with proposed modification

DA APPROVED SECTIONS



01. APPROVED SECTION 01
1:2.50



02. APPROVED SECTION 02
1:2.50



03. APPROVED SECTION 03
1:2.50

PROPOSED SECTION 4.55



04. PROPOSED SECTION 01
1:500



05. PROPOSED SECTION 02
1:500



06. PROPOSED SECTION 03
1:500

Figure 3: Sections comparing approved with proposed modification

1.3. Description of the site

A site inspection was carried out on 11 November 2021

Land is legally described	LOT: 8 DP: 840653	
Property address	865 Broken Head Road BROKEN HEAD	
Land is zoned:	<p><u>Both dwellings are located entirely within the RU2 Rural Landscape zone.</u></p> <p><u>When the original DA was assessed the following zoning applied to the site:</u></p> <p>Byron LEP 2014 RU2 Rural Landscape / PART DM Deferred Matter</p> <p>Byron LEP 1988 1a (General Rural) Zone and 7K (Habitat) Zone</p> <p><u>LEP amendments have changed the zoning on the site as follows (see Figures 4 and 5)</u></p> <p>Byron LEP 2014 RU2 Rural Landscape / PART C2 Environmental Conservation</p> <p>Byron LEP 1988 Part 7D Scenic Escarpment Zone/ Part 7K (Habitat) Zone</p>	
Land area is:	35.29 ha	
Property is constrained by:	<p>Bushfire prone land; High Conservation Value / High Environmental Value; Cattle Dip Buffer</p>	
	Is a BDAR required due to the location of the proposed development?	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Are there any easements in favour of Council affecting the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Vegetation Management Plan which might affect the proposal?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

*An amendment to the approved Biodiversity Conservation Management Plan is required to be prepared by recommended conditions of consent attached to this report.

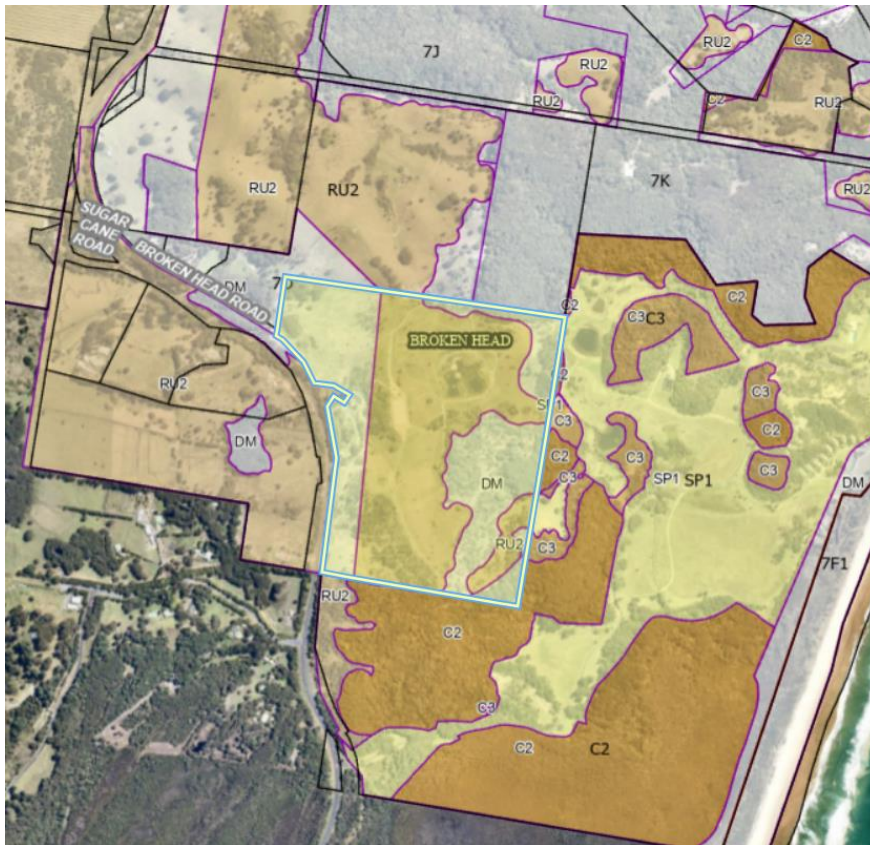


Figure 4: Zoning Map Extract at time of original assessment (Geocortex 6.6.22)

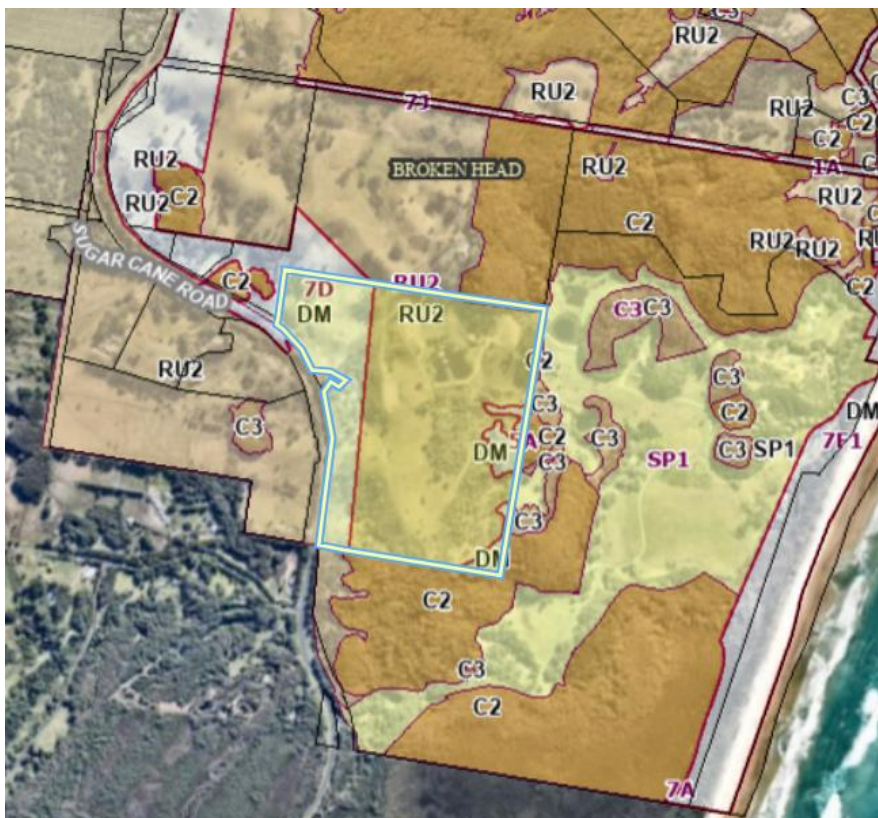


Figure 5: Zoning Map Extract current (Geocortex 21.8.24)



Figure 6: Photo location of larger dwelling looking south



Figure 7: Photo location of second smaller dwelling looking south

- 5 Part of the existing internal driveway has been constructed across the road reserve at
some time in the past two to three decades. The section of road reserve is superfluous to
Council needs (Refer to Figure 8). The applicant proposed to close this part of the road off
and purchase it. The relevant application has been made for this to occur through Council
Infrastructure Services and was approved at a meeting of Council on 27 November 2023
10 under Resolution Number:23-546, as follows:

Resolved:

1. That Council endorses the closure of part road reserve adjoining Lot 8 DP 840653 as detailed in the report.

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2. That Council accepts the valuation as per *Attachment 1 E2023/112021*, that has been agreed upon by the landowners.
3. That the applicant pays all remaining costs associated with the part road closure and consolidation.
- 5
 - a) Council application fees
 - b) Council's surveyor's fees and survey, valuation, and legal costs
 - c) All registration fees
 - d) Legal costs
- 10
 4. The allotments created by the part road closure to be consolidated into existing Parcel No 200460 Lot 8 DP 840653.
 5. That Council authorises the General Manager to execute all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road.

(Lyon/Westheimer)



Figure 8: Part Driveway requires road closure

2. SECTION 4.15 – 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.

5 2.1. State Environmental Planning Instruments

Considerations	Satisfactory
<p><i>Resilience and Hazards SEPP 2021</i></p> <p>Consideration:</p> <p>Chapter 2 Coastal Management</p> <p>Part of the north western corner of the lot is mapped under the coastal management areas including 100 metre buffer to coastal wetlands. The proposed development does not affect mapped littoral rainforest or coastal wetlands and no part of the development is affected by the coastal management provisions of the SEPP.</p> <p>Chapter 4 Remediation of Land</p> <p>As the site was originally used as a banana plantation, it can be expected that the site is contaminated with residual Arsenic and Organochlorine based pesticides. It is likely that the site also contains “hotspots” where chemicals were stored and mixed, or bananas processed and packed.</p> <p>The Chemical Residue Assessment prepared by Soil Pacific, dated the 14.01.1998 (E2021/106441) only assessed the land area surrounding the previous primary dwelling. A further assessment was prepared by Greg Alderson Associated in January 2022 to investigate the site of the proposed second dwelling (Refer to Doc# E2022/58650.</p> <p>Reports submitted with the original application were assessed by Council’s Environmental Health Officer and it is considered that no further investigation is required.</p>	<input checked="" type="checkbox"/>
<p><i>Transport and Infrastructure SEPP 2021</i></p> <p>Consideration:</p> <p>Chapter 2 Infrastructure</p> <p>The original application was referred to Essential Energy in accordance with S2.48 of the SEPP. Referral to Essential Energy resulted in comments about safety concerns related to the proximity of existing overhead powerlines to the second smaller dwelling. Based on these comments and observation at site inspection of the power lines over an artificial dam being</p>	<input checked="" type="checkbox"/>

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Considerations	Satisfactory
<p>used for recreation purposes, a condition of consent is recommended to ensure that the applicant addresses Essential Energy's safety concerns, prior to issue of a construction certificate. The applicant is considering relocating the power underground and the condition recommended requires them to resolve this to the satisfaction of Essential Energy including the potential to relocate the power lines or make minor adjustments to the building location to ensure it is 10 metres clear of the overhead power prior to issue of a construction certificate.</p> <p>This will also address the separate safety issue of the use of the artificial dam for recreation and swimming purposes not subject to this DA.</p>	
<p><i>SEPP (Building Sustainability Index: BASIX) 2004</i> <i>(Now included in the Sustainable Buildings SEPP 2022)</i></p> <p>Consideration: A valid BASIX Certificate (number: 1221524M_06) dated 16 May 2024 was submitted with the modification application.</p>	<input checked="" type="checkbox"/>

2.2. Byron Local Environmental Plan 2014 (LEP 2014)

LEP 2014 is an applicable matter for consideration in the assessment of the subject application in accordance with subsection 4.15(1) of the EP&A Act because it applies to the subject land and the proposal. The LEP 2014 clauses that are checked below are of relevance to the proposal:

The relevant clauses under Byron LEP 2014 are discussed below.

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 Dual occupancy (detached);
- (b) The land is within the RU2 Rural Landscape
- (c) The proposed development is permissible with consent; and
- (d) Regard is had for the Zone Objectives as follows:

Zone Objective	Consideration
<ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. 	The proposed development is not inconsistent with the objectives of the zone.
<ul style="list-style-type: none"> • To maintain the rural landscape character of the land. 	
<ul style="list-style-type: none"> • To provide for a range of compatible land uses, including extensive agriculture. 	
<ul style="list-style-type: none"> • To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality. 	
<ul style="list-style-type: none"> • To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality. 	

Clause 4.1E Minimum lot sizes for certain residential accommodation

The proposal complies with the minimum lot size requirements of 4000 m2 for detached dual occupancies.

5 Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural and environment protection zones

The subject property has a “dwelling entitlement” and as such approval of the dual occupancy is permissible with consent.

Clause 4.2D Erection of dual occupancies (detached) and secondary dwellings in Zones RU1 and RU2

- 10 The proposal raises no issues under the clause with both dwellings accessible from one driveway. The dwellings are generally low set, will not impact on the visual or scenic quality of the area, there is adequate land available for onsite effluent disposal, whilst the land can still be utilised for agricultural and rural purposes.

Clause 4.3 Height of Buildings

- 15 Dwellings comply with the 9 metre height limit under the LEP.

Clause 6.2 Earthworks

- 5 The main dwelling has a basement gymnasium, plant, storage and pool, necessitating earthworks for their construction. It is considered the works will not have an adverse impacts on drainage patterns, or the existing or future amenity of adjoining properties, or affect the future use or redevelopment potential of the land. Appropriate conditions of consent are recommended in relation to uncovering or disturbing relics, sedimentation and erosion control measures, and the disposal of any fill material.

Clause 6.6 Essential Services

- 10 The proposal can be adequately serviced with all necessary infrastructure.
- 10 The proposal raises no other issues under Byron LEP 2014.

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

None applicable.

2.4. Byron Shire Development Control Plan 2014 (DCP 2014)

- 15 DCP 2014 is an applicable matter for consideration in the assessment of the subject application in accordance with subsection 4.15(1) of the EP& A Act because it applies to the land to which LEP 2014 applies. The DCP 2014 Parts/Chapters that are of relevance to the proposal were considered in the original development assessment and the modifications do not raise any additional issues that cannot be addressed by conditions of consent.
- 20

Chapter B1 Biodiversity

- 25 The original proposal required a variation to the prescriptive measures of Section B1.2.1 of Chapter B1 of the DCP. Specifically, the proposed development footprint proposed removal of native vegetation and encroaches within the required 30m setback area to EECs (littoral rainforest) on the site. Apart from this issue, the proposal is generally in accordance with Chapter B1.

- 30 The original application included a Flora and Fauna Assessment' (FFA) prepared by Australian Wetlands Consulting dated July 2021 that acknowledged this and proposed to incorporate a Biodiversity Conservation Management Plan (BCMP) to compensate for this variation. The proposed ecological restoration area to be subject to the BCMP was considered sufficient to compensate for the encroachment into the setback area and was conditioned.

- 35 The condition is recommended to be augmented to include additional compensation plantings for ecological restoration identified in an addendum Flora and Fauna Assessment prepared by Australian Wetlands Consulting Pty Ltd, Revision BC, dated May 2024.

2.5. Environmental Planning & Assessment Regulation 2021 considerations

The proposal raises no issues under the relevant regulations.

5 2.6. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Impact on:	Likely significant impact/s?
Natural environment	No. The proposal will not have a significantly adverse impact on the natural environment of the locality. Conditions of consent to apply as discussed above.
Built environment	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
Social Environment	No. The proposal will not have a significant social impact on the locality.
Economic impact	No. The proposal will not have a significant economic impact on the locality.
Construction Impacts	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.

The proposed development complies with Council's development-related policies.

2.7. The suitability of the site for the development

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

2.8. Submissions made in accordance with this Act or the regulations

The modification application was publicly exhibited. There were no submissions made on the modification application.

15 2.9. Public interest

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

3. DEVELOPER CONTRIBUTIONS

3.1. Water & Sewer Levies

No Section 64 levies will be required.

5 3.2. Section 7.11 Contributions

Section 7.11 Contributions will be payable.

4. CONCLUSION

An application has been received to modify the design of the eastern dwelling and swimming pool component of an approved dual occupancy.

- 10 The application includes revised development plans prepared by Harley Graham and Associates enclosed in Attachment 1 of this report. The modification application was also supported by updated Bush Fire and Flora & Fauna Assessment Reports. The proposal demonstrates that the modification is substantially the same development as that originally approved. The conditions proposed to be modified in accordance with the
- 15 recommendation of this report are enclosed at Attachment 2.

The proposal is satisfactory having regard to relevant matters for consideration and the section 4.55 application is recommended for approval subject to modifying the current conditions of consent as listed in the Recommendation of this Report

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.5 Tree/Vegetation Vandalism Policy

Directorate: Infrastructure Services

5 **Report Author:** Heather Sills, Manager Corporate Services

File No: I2024/1200

Summary:




Council placed the draft Tree/Vegetation Vandalism Policy (Policy) (Attachment 1) on public exhibition for a period of 28 days.

10 This report provides details of the two (2) submissions received during the public exhibition period and seeks Council's endorsement of the Policy.

15 **RECOMMENDATION:**

That having considered the submissions received, Council endorses the Tree/Vegetation Vandalism Policy (Attachment 1 - #E2021/30925).

Attachments:

- 20 1 Policy: Tree/Vegetation Vandalism 2024, E2021/30925 
- 2 Submission 1: Tree/Vegetation Vandalism Policy, E2024/97547 
- 3 Submission 2: Tree/Vegetation Vandalism Policy, E2024/85332 

Report

The purpose of the Tree/Vegetation Vandalism Policy is to promote a consistent Shire wide approach to the protection and management of trees and vegetation in the landscape, particularly in deterring and responding to the loss of vegetation arising from deliberate vandalism on public land.

Council resolved on 27 June (**24-279**) to place the draft Tree/Vegetation Vandalism Policy on public exhibition for 28 days to allow for submissions and required that should submissions be received, that the policy be reported back to Council noting the submissions and amendments made because of the feedback received

The policy was placed on public exhibition for a period of 28 days, during which two submissions were received (attachments 2 and 3).

Both submissions were supportive of the Policy. Operational detail will to be contained in a separate operational guideline (similar form to the Guidelines on Tree Management).

All appropriate operational detail from the submissions will be considered in the development of the Guidelines.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.1: Enhance trust and accountability through open and transparent leadership	1.1.1: Leadership - Enhance leadership effectiveness, capacity, and ethical behaviour	1.1.1.1	Coordinate Council's annual policy review program, update and publish adopted policies

Recent Resolutions

24-279 - Resolved that Council places the draft Tree/Vegetation Vandalism Policy on public exhibition for 28 days to allow for submissions and that should submissions be received, that the policy be reported back to Council.

Legal/Statutory/Policy Considerations

The Policy was reviewed to ensure consistency with the relevant legislation, agency guidelines, rules or protocols.

Financial Considerations

N/A

Consultation and Engagement

The draft policy was placed on public exhibition for a period of 28 days, inviting public comment. The submissions received during this period are provided for Council's consideration.

- 5 No changes are recommended as a result of the submissions.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

**Report No. 14.1 Report of the Finance Advisory Committee
Meeting held on 8 August 2024**

5 **Directorate:** Corporate and Community Services

File No: I2024/1142

Summary:

10 The Finance Advisory Committee met on 8 August 2024. The Minutes are attached for
noting by Council.

RECOMMENDATION:

15 1. **That Council notes the minutes of the Finance Advisory Committee Meeting
held on 8 August 2024.**

2. **That Council adopts the following Committee Recommendation:**

**Report No. 3.1 Adoption of Minutes of the Finance Advisory Committee
Meeting held 9 May 2024**

File No: I2024/735

Committee Recommendation 3.1.1

**That the minutes of the Finance Advisory Committee Meeting held on 9 May
2024 be confirmed.**

3. **That Council adopts the following Committee Recommendation:**

Report No. 4.1 Carryovers for Inclusion in the 2024-2025 Budget

File No: I2024/1089

Committee Recommendation 4.1.1

**That Council approves the works and services (with respective funding) shown
in Attachment 1 (#E2024/88511) to be carried over from the 2023/2024 financial
year and that the carryover budget allocations be adopted as budget revotes**

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

for inclusion in the 2024/2025 Budget Estimates.

4. That Council adopts the following Committee Recommendation:

Report No. 4.2 Budget Review - 1 April to 30 June 2024

File No: I2024/1093

Committee Recommendation 4.2.1

1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2024/89025) which include the following results in the 30 June 2024 Quarterly Review of the 2023/2024 Budget:
 - a) General Fund – \$429,000 movement to the Estimated Unrestricted Cash Result
 - b) General Fund - \$54,423,800 increase in reserves
 - c) Water Fund - \$2,734,400 increase in reserves
 - d) Sewerage Fund - \$5,413,800 increase in reserves
2. That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$429,000 for the 2023/2024 financial year as at 30 June 2024.

Attachments:

- 5 1 Minutes 08/08/2024 Finance Advisory Committee, I2024/1122 

Report

The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 8 August 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Finance Advisory Committee Meeting - Thursday, 8 August 2024](#)

The following items were considered by the Committee:

Report No. 4.1 Carryovers for Inclusion in the 2024-2025 Budget

- 10 This report was prepared for Council to consider and to adopt the carryover Budget allocations for works and services, either commenced and not completed, or not commenced but allocated in the 2023/2024 financial year for inclusion in the 2024/2025 Budget Estimates.

Report No. 4.2 Budget Review – 1 April to 30 June 2024

- 15 This Report was prepared to comply with Section 203 of the *Local Government (General) Regulation 2021* and to inform Council and the community of Council's estimated financial position for the 2023/2024 financial year, reviewed as at 30 June 2024.

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

Financial Implications

- 20 As per the Reports listed within the Finance Advisory Committee Meeting of 8 August 2024.

Statutory and Policy Compliance Implications

As per the Reports listed within the Finance Advisory Committee Meeting of 8 August 2024.

QUESTIONS WITH NOTICE

Question with Notice No. 15.1 Laneway in Suffolk Park

File No:

I2024/1141

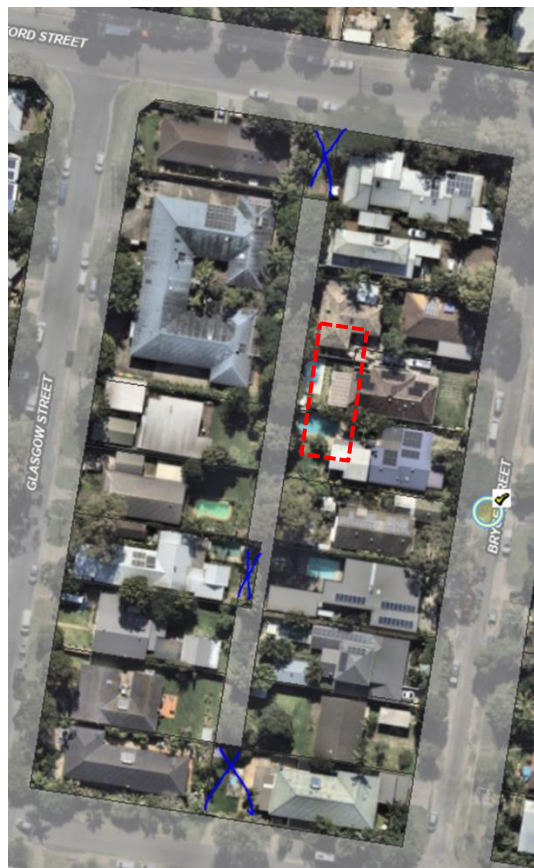
5

Cr Dey asks the following question:

10 Road closure proposal #E2024/67785 went out for public comment in July 2024. To the best of my knowledge, it applies to the red outlined area on the image below (North is up the page). The current proposal is that the property to the east of the closure will purchase that land.

15 Three areas of this laneway are already closed, shown with blue crosses. They are now part of an allotment adjacent to them. This means there is no public access to the remaining laneway land. Access for Council would have to be negotiated, should it need to maintain the sewer line that runs along the laneway.

Stormwater lines from various buildings drain to the laneway, rather than to the street frontages in Glasgow and Bryce Streets. Some overland flow does the same.



BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.1

1. Will this proposal be reported to the elected Council, at which stages, and when is / are those reports likely to become public?
- 5 2. Will there be an option for the western neighbour to purchase at least 'their' half of the lane in the current closure, as requested in one of the public submissions lodged during the comment period?
3. Will Council retain an easement over the sewer line that runs down the centre of the laneway?
4. What will be the fate of stormwater that is directed to the laneway?
- 10 5. Is it OK for landholders to fill their land, once acquired, over the sewer line and where stormwater may need to flow or store and infiltrate?
6. Were stormwater to be redirected to the street frontage, who would fund these changes?
- 15 7. When will stormwater and other functions of the laneway be considered? Other functions include: urban shading; habitat; windbreak; buffering to neighbours; etc.

Response Director Infrastructure Services:

- 20 1. The Road closure proposal #E2024/67785, is at Step 3 of the Road Closure and Sale process [Road closures and sales - Byron Shire Council \(nsw.gov.au\)](https://www.byron.nsw.gov.au/files/assets/public/v/1/hptrim/corporate-management-policies-current/policy-land-acquisition-and-disposal-2024-current_policies.pdf). The proposal has been advertised and adjoining landholders have been notified. The process for this proposal is currently on hold until the Roads and Property Officer returns from leave. Step three of the process includes assessing objections from submissions and negotiating objections. Once this has been finalised a report will be prepared for Council consideration.
- 25 2. The Land Acquisition and Disposal Policy, outlines the prerequisites for suitable land disposals. An adjoining landholder can detail their request as a part of the submission process.
https://www.byron.nsw.gov.au/files/assets/public/v/1/hptrim/corporate-management-policies-current/policy-land-acquisition-and-disposal-2024-current_policies.pdf
- 30 3. Questions 3 – 7 will be considered and responded to when the Road closure proposal #E2024/67785 is reported to Council. Subject to further investigation and reporting if required.

35

Question with Notice No. 15.2 Mullumbimby Future Water Supply

File No: I2024/1204

5

Cr Duncan Dey asks the following questions:

In relation to Mullumbimby's future water supply, Council's Resolution **24-411** states that Council:

- 10 1. *Notes the outcomes of the public consultation on Mullumbimby Future Water Strategy (Attachment 1 and 2);*
2. *Notes the revised NPV comparison analysis for the Water Supply Options for Scenarios 2 and 3;*
- 15 3. *Adopts Scenario 3 - permanent, full connection to the Rous regional water supply;*
4. *Maintains its extraction licence at Lavertys Gap;*
5. *Requests staff to investigate and report back to Council options for Lavertys Gap water treatment infrastructure and associated land use; and*
- 20 6. *Commits to continuing to reticulate current volumes of potable water to properties already connected between the Laverty's gap Water Treatment Plant and Azalea Street reservoirs.*
1. What are the next steps for connecting to Rous, such as Deeds of Agreement or other 'contracts'?
- 25 2. What time frames apply for each step and will Staff or the Council or the Mayor take any of those steps before November 2024?
3. If such steps are taken, will they be reported to Councillors and/or the public?

30

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.2

Response Director Infrastructure Services:

1. What are the next steps for connecting to Rous, such as Deeds of Agreement or other 'contracts'?

- 5 Council has written to Rous Water advising of the position adopted in Resolution 24-411. Negotiations with Rous County Council will commence in the near future in the development of a revised service level agreement (SLA).

2. What time frames apply for each step and will Staff or the Council or the Mayor take any of those steps before November 2024?

- 10 Council aims to have an agreement in place prior to the pipeline being completed (currently planned for June 2025).

This will be dependent on Rous water requirements.

- 15 In writing to Rous Water, Council sought to clarify the steps and the timeframe for each step.

3. If such steps are taken, will they be reported to Councillors and/or the public?

The revised SLA will be reported to Council when available.

20

Question with Notice No. 15.3 Bypass Biobanking

File No:

I2024/1207

5

Cr Dey asks the following questions:

1. Has Council complied with the following Bypass Biobanking Agreements:

- a) ID 352 Lilli Pilli, and
- b) ID 348 Wallum Place, Byron STP?

10

and specifically complied on:

- (i) payment of the Total Fund Deposits,
- (ii) delivery of management actions,
- (iii) monitoring,
- (iv) reporting, and

15

(v) Annual Reports record keeping as prescribed in the agreements?

2. Where are updates and progress reports regarding these Biobanking Agreements available to the public?

3. Are there updates on the “Above and Beyond” offsets at Butler St, Sunrise Boulevard and Midgen Park as resolved by Council in Resolutions **19-253** and **19-419**?

20 **Response Director Infrastructure Services:**

1. Yes, Council has complied with Bypass Biobanking Agreements referred to.

The Total Fund Deposits were paid in 2019, the delivery of management actions is complete, monitoring is undertaken, annual reports have been submitted and record keeping is undertaken, all as prescribed in the agreements.

25

Following Council’s submission of the 2023 Annual Report for year 5 of the Biodiversity Stewardship (Biobank) Agreements, the Biodiversity Conservation Trust completed an audit of site BA 348 Wallum Place management actions and confirmed that the required actions have been satisfactorily completed.

30

2. Existing BioBanking Agreements are managed under the Biodiversity Conservation Act 2016 (NSW) as Biodiversity Stewardship Agreements.

The Biodiversity Conservation Trust is responsible for the ongoing management of these agreements, including administration of annual reports.

35

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.3

Questions about existing BioBanking Agreements can also be directed to the Biodiversity Conservation Trust: info@bct.nsw.gov.au.

- 5 Reports regarding these Biobanking Agreements are not published by the Biodiversity Conservation Trust as far as Council is aware but would be subject to GIPA and would likely be able to made available on request.
- 10 3. All major work is complete and all three (3) sites are at a maintenance level, containing less than 1% introduced species of plants.

The Above and Beyond budget is \$18,400 for the 2024/25 financial year, which will be enough to maintain all 3 sites at this level.

15

Question with Notice No. 15.4 20m Buffer to Waterway in Wallum

File No: I2024/1208

5

Cr Dey asks the following questions:

Council's meeting Agenda for 8 February 2024 had attached a *Revised Wallum Froglet Management Plan - AWC Revision I - 6/12/23*.

- 10 The Concept Approval of July 2013 for this project carries Consent Conditions including Schedule 2 Part B "Modifications to the Concept Plan".

Section 7 of AWC's 2023 Plan contains Table 7.1 (copy attached) which discusses the project's compliance with the Concept Approval of 2013. Condition B4 requires that:

- 15 *A revised Stormwater Concept for the project must be prepared by a suitably qualified person in consultation with Council to achieve the following objectives:*

- 20 a) *retention of the existing north-south drain alignment with a buffer of 20m either side of the channel such that the existing wallum froglet habitat in this area is conserved and enhanced. Minor infringements of up to 5m into the buffer area can occur provided they are offset on the other side of the channel. For example, a buffer may be 15m on one side of the channel provided this is offset by increasing the other side to 25m (i.e. a total width of 40m plus channel width)*
- b) *the buffer areas should not contain stormwater management facilities other than a stormwater treatment basin at the southern end of the channel, where required*
- 25 c) *no significant change to the flow regimes from the predevelopment.*

Questions

1. Have these configuration requirements been carried over into the design approved in May 2023?
2. Why do plans like the following show a buffer much smaller than the 20m required?
- 30 Clarence Property's (Fig 1.2) 1-211400_WALLUM
(Central Drain Habitat & Rehabilitation Plan) 1-211400_EW_02
3. Are these errors delaying the issue of the second Subdivision Works Certificate?

Response Director Sustainable Environment and Economy:

1. Have these configuration requirements been carried over into the design approved in May 2023?

5 No. Plans approved by the Northern Regional Planning Panel under Development Consent DA10.2021.575.1 varied the Concept Approval condition B4 ensuring large tracts of wallum habitat outside the 20-metre buffer were retained on the western side of the drain, with the footprint of the development coming closer to the eastern side of the drain.

10 **2. Why do plans like the following show a buffer much smaller than the 20m required? Clarence Property's (Fig 1.2) 1-211400_WALLUM (Central Drain Habitat & Rehabilitation Plan) 1-211400_EW_02**

For the reasons stated above.

3. Are these errors delaying the issue of the second Subdivision Works Certificate?

15 No. The applicant is yet to complete works in Stage 1 which are a prerequisite to the Stage 2 Subdivision Works Certificate being issued.

Attachments:

1 Revised W F M Plan page 41 table 7.1, E2024/98371