

# Agenda Ordinary (Planning) Meeting

Thursday, 13 March 2025



**BYRON**  
SHIRE  
COUNCIL

# Agenda Ordinary (Planning) Meeting

held at Council Chambers, Station Street, Mullumbimby  
commencing at 3:00 PM

Public access relating to items on this agenda can be made between 3:00pm and 4:00pm on the day of the meeting. Requests for public access should be made to the General Manager or Mayor no later than 12:00 midday on the day prior to the meeting.

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

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

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

### Disclosure and participation in meetings

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

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

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

**Non-pecuniary Interests** - Must be disclosed in meetings.

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

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

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

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## OATH AND AFFIRMATION FOR COUNCILLORS

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

# BYRON SHIRE COUNCIL

## BUSINESS OF ORDINARY (PLANNING) MEETING

### 1. PUBLIC ACCESS

### 2. APOLOGIES

### 3. ATTENDANCE BY AUDIO-VISUAL LINK

### 4. REQUESTS FOR LEAVE OF ABSENCE

### 5. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

### 6. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.14 CODE OF CONDUCT FOR COUNCILLORS)

### 7. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

7.1 Ordinary (Planning) Meeting held on 13 February 2025

### 8. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

### 9. NOTICES OF MOTION

Nil

### 10. MAYORAL MINUTE

### 11. PETITIONS

### 12. DELEGATES' REPORTS

### 13. STAFF REPORTS

#### General Manager

13.1 Draft Community Engagement Strategy ..... 8

#### Sustainable Environment and Economy

13.2 PLANNING - Post Exhibition Submissions Report - 26.2024.1.1 - Planning Proposal to amend Byron Local Environmental Plan 2014 to introduce a Heritage Conservation Area and additional Items at Federal ..... 18

13.3 PLANNING - DA 10.2024.305.1 – Alterations and additions to livestock processing industry including part demolition, tree removal, road upgrades, and ancillary works, 10 Cudgerie Gully Lane, Booyong..... 29

13.4 PLANNING - 10.2024.239.2 - S4.55 Modification to delete limited patronage in 'soft-opening' condition – 38 Tweed Street, Brunswick Heads..... 65

13.5 PLANNING - Report of the Planning Review Committee held 6 February 2025..... 75

13.6 Review of Local Approvals Policy 2025 ..... 79

13.7 PLANNING - DA 10.2024.364.1 - Alterations and additions to shop top housing and commercial premises – 14 Terrace BRUNSWICK HEADS ..... 82

## BYRON SHIRE COUNCIL

13.8	Status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP) .....	105
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### 14. REPORTS OF COMMITTEES

#### Infrastructure Services

14.1	Report of the Local Traffic Committee Meeting held on 18 February 2025.....	110
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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](http://www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice)*

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

STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1      Draft Community Engagement Strategy**

**Directorate:**                      General Manager

5    **Report Author:**                Annie Lewis, Media and Communications Coordinator

**File No:**                            I2025/222

**Summary:**

In December 2024 Council resolved (**24-599**) to defer the adoption of the Community Engagement Strategy pending a Councillor Workshop in February 2025.

10    The workshop was held in early February and as a result some changes have been made to the draft strategy and it is again presented to Councillors for adoption.

The purpose of this report is to provide the outcomes of the exhibition of the Draft Community Engagement Strategy 2024 to 2028 and the Councillor Workshop, with a recommendation that the strategy be adopted.

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**RECOMMENDATION:**

20    **That Council adopts the Draft Community Engagement Strategy 2024 to 2028 (Attachment 1 E2025/23598)**

**Attachments:**

1      Revised Draft Community Engagement Strategy 2024 to 2028, E2025/23598 

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## Report

5 The Draft Community Engagement Strategy 2024 to 2028 was presented to Councillors at the Ordinary meeting on 12 December 2024 with a recommendation for adoption. Council resolved (**24-599**) to defer the adoption of the Community Engagement Strategy pending a Councillor Workshop in February 2025.

The workshop was held in early February and as a result some changes have been made to the draft strategy and it is again presented to Council for adoption.

## Background

10 At the meeting on 24 October 2024 Council resolved to put the Draft Community Engagement Strategy on public exhibition.

The draft strategy was placed on public exhibition from 25 October to 24 November with a total of 10 submissions received. The majority of feedback was either supportive or highlighted issues relevant to specific areas e.g. heritage, ageing, rail trail.

15 The [submissions received](#) and a [summary of feedback](#) was provided to Councillors for consideration at the December Meeting.

After representations from two community members Council resolved (**24-599**) to defer the adoption of the Community Engagement Strategy pending a Councillor Workshop in February 2025.

A workshop was held on 6 February, where Councillors and staff discussed:

- 20
- The Draft Community Engagement Strategy 2024 to 2028
  - Community engagement
  - Recommendations from a community meeting organised by a Councillor in January 2025 to specifically discuss community engagement and the draft strategy.

25 Several changes have since been made to the draft strategy at the request of Councillors including:

- Improved link to the Community Participation Plan
- More detailed stakeholder list
- Amendments to the wording relating to the IAP2 spectrum and how we engage

30 The recommendation is for Council to now adopt the Community Engagement Strategy 2024 to 2028.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
1: Effective Leadership	1.2: Engage and involve community in decision making	1.2.1: Community-led decision making - Engage with community to inform Council decision making	1.2.1.1	Provide opportunities for the community to have input, comment and feedback to Council on projects and matters of interest
			1.2.1.2	Support staff to consider communication and engagement as part of all project development and implementation
		1.2.2: Communication - Provide timely information to the community about Council projects and activities through traditional and digital media	1.2.2.5	Ensure information can be read and understood by our community regardless of their level of education, language spoken, lived experience of disability
		1.2.3: Customer Service - Deliver efficient customer service consistent with our Customer Service Standards	1.2.3.1	Implement additional accessibility support options for customers where possible
			1.2.3.2	Deliver efficient service to our customers by providing consistent, accurate and timely information

### Recent Resolutions

- **24-599** - Resolved that Council defers the adoption of the Community Engagement Strategy pending a councillor workshop in February.

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## Legal/Statutory/Policy Considerations

5 [Local Government Act s402A](#) - A council must establish and implement a strategy (called its **community engagement strategy**) for engagement with the local community when developing its plans, policies and programs and for the purpose of determining its activities (other than routine administrative matters).

### [Integrated Planning and Reporting Guidelines](#)

10 **Essential Element 2.1:** A Community Engagement Strategy must be prepared, adopted and implemented, based on social justice principles, for engagement with the local community to support council in developing its plans and determining key activities. This includes development of the Community Strategic Plan, and all relevant council plans, policies and programs.

**Essential Element 2.3:** The [Community Engagement] Strategy must be reviewed within 3 months of the local government elections, as part of the broader review of the Community Strategic Plan

## 15 Consultation and Engagement

The exhibition of the draft strategy was supported by a comms and engagement plan and included the following:

- Available on Your Say on Council's website
- 20 • Two advertisements in the Byron Shire Echo (6 November 2024, 13 November 2024)
- Social media posts on Facebook and Instagram (7 November 2024, 20 November 2024, 21 November 2024)
- E News (1 November 2024, 19 November 2024)
- Direct notification - Community Roundtable

## 25 Engagement summary

- 228 were informed about the project via Your Say (page views).
- Reach of 598 via Facebook, 219 on Instagram
- 8,562 people opened the E News on 1 November 2024, 8,595 on 19 November 2024 with 26 people clicking through to the Your Say page.

## 30 Submissions

10 submissions were received.

- Your Say – eight submissions
- Email – two submissions (note: one of these submissions was given in-person as well.)

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.1

A summary of the submissions received is provided below, as originally reported to Council in December 2024:

### Comments/Feedback

Submission	Summary
<p><b>Bangalow Community Association</b></p>	<p>Supports the adoption of the draft strategy.</p> <p>The draft strategy recognises that community can make an essential contribution to decisions affecting social amenity and government and commercial forces should not be allowed to dominate the agendas of villages, towns etc.</p> <ul style="list-style-type: none"> <li>• Council has open and inclusive policies that encourage community engagement by various methods across all levels of decision-making.</li> <li>• Optimal engagement outcomes are achieved from collaboration with a broad group of community representatives such as village residents (long term), creative workers and business owners because they can contribute broad and deep knowledge and skills.</li> <li>• Acknowledges that broader deliberative processes have their place in resolving complex issues.</li> <li>• Notes absence of Heritage Advisory committee is disappointing for towns like Bangalow where heritage is important.</li> <li>• Council’s Community Roundtable and Place Planning Collective are valuable engagement forums.</li> <li>• Would like to see more workshops as these seem to have declined since COVID and are an effective way for community members to talk to staff to get an understanding of significant strategic items.</li> <li>• Support key stakeholders (including community groups) being involved in the masterplans/planning for community significant development so there is understanding and provision of the supporting infrastructure, business case viability. This is recommended in the Byron Residential Strategy and supported by DPHI.</li> </ul> <p><b>Staff comments</b></p> <p>The feedback provided reflects the draft strategy, and comments about the value of workshops will be promoted to staff when planning engagement activities, as well as to Managers and Directors. The comments relating to the Heritage Advisory Committee have been sent to Shannon Burt, SEE Director.</p>

# BYRON SHIRE COUNCIL

Submission	Summary
	Comments about Community Roundtable are noted.
<b>Mullumbimby Residents Association</b>	<p>The submission by Mullumbimby Residents Association (MRA) provided an overview and commentary on the importance of meaningful and effective community engagement.</p> <p>The MRA emphasised that:</p> <ul style="list-style-type: none"> <li>• Well-planned and meaningful engagement is essential to developing trust within the community.</li> <li>• Engagement should not be a box-ticking exercise for staff but rather an opportunity to achieve good outcomes for Council and the community.</li> <li>• It is important for the community to see how their feedback was represented to Council/decision makers and how it was considered.</li> <li>• Improvement relating to engagement needs to be continuous.</li> <li>• Engagement should be timely and be planned and executed as early as possible.</li> <li>• Inclusion and accessibility – all members of the community should have the opportunity to contribute thoughts, opinions, feedback in a variety of ways.</li> <li>• Supportive of IAP2 spectrum of engagement and staff deciding on the appropriate level of engagement.</li> <li>• Essential for community engagement to be included in Council’s decision-making process.</li> </ul> <p><b>Staff comments</b></p> <p>The MRA is identified as a key stakeholder in the Byron Shire and staff met with the MRA prior to the development of the draft strategy to get information and input.</p> <p>The answer to a request relating to providing tracked changes between the 2022 and 2024 strategies is that the 2024 document was written as a new document. Concepts remain the same, but language has been changed and reworded to ensure the document, as much as possible complies with accessibility standards. Both versions are available on Council’s website.</p> <ul style="list-style-type: none"> <li>• 2022 <a href="#">Community Engagement Strategy - Byron Shire Council</a></li> <li>• 2024 <a href="#">Draft Community Engagement Strategy 2024 to 2028 - Byron Shire Council</a></li> </ul>
<b>Community</b>	<ul style="list-style-type: none"> <li>• More whole-town stakeholder workshops to plan visions for</li> </ul>

# BYRON SHIRE COUNCIL

Submission	Summary
<p><b>member</b></p>	<p>the future or at the beginning of projects (planning phase).</p> <ul style="list-style-type: none"> <li>• Engagement with the community shows that people are valued, and this results in a higher likelihood that people will support the work of Council rather than 'council-bashing'.</li> <li>• More face-to-face engagement with Councillors and staff will have better outcomes for everyone.</li> <li>• Would like to see staff assessed on their community engagement for each project and this should be more than 'ticking boxes'.</li> <li>• Would like to see the community give feedback on the engagement that occurs with each Council project.</li> <li>• Acknowledges that community engagement has improved in recent years.</li> </ul> <p><b>Staff comments</b></p> <p>Stakeholder workshops are an important tool and are always considered when designing community and engagement plans for projects.</p> <p>Staff favour stakeholder workshops or drop-in sessions over town hall meetings. The reasons for this are:</p> <ul style="list-style-type: none"> <li>• Town hall meetings can be difficult to manage, require strong facilitation and often do not have productive outcomes.</li> <li>• Drop-in sessions, or stakeholder workshops ensure people can meet with specialist staff or consultants and have their voices heard, their questions answered, and their feedback or suggestions considered.</li> <li>• Drop-in sessions offer flexibility, often held across different days, venues and different times.</li> </ul> <p>Early engagement is certainly the preferred option for staff and results in better outcomes for the community and Council.</p> <p>The success or otherwise of communication and engagement plans and activities is assessed continually. There is little to be gained by adding another layer of process by assessing staff on their community engagement.</p> <p>Complaints can be made to the Media and Communications team directly and feedback is always taken on board.</p> <p>Feedback about the phone system has been passed on and thank you for acknowledging efforts to continually improve the way we work with our community.</p>

# BYRON SHIRE COUNCIL

Submission	Summary
<p><b>Community member</b></p>	<p>This submission suggests the draft strategy needs to be more comprehensive and is lacking information relating to the Integrated Planning and Reporting guidelines, and how Council operates.</p> <p>It should contain:</p> <ul style="list-style-type: none"> <li>• Links to the Office of Local Government, Information and Privacy Commission.</li> <li>• A section on the Council website, explaining what information is available and how the GIPA process works.</li> <li>• A reference section at the end of the document that includes links to guidelines, handbooks, legislation and other relevant documents that could be of use to the community.</li> </ul> <p>Other feedback included:</p> <ul style="list-style-type: none"> <li>• The draft strategy should explain all Council’s responsibilities and all the opportunities where the community can engage.</li> <li>• The Community Engagement Strategy and the Community Participation Plan should be combined into one document.</li> <li>• The draft strategy could provide more information about the Integrated Planning and Reporting Framework, the hierarchy of documents the Council is required to produce, requirements under the EP&amp;A Act, along with other documents such as the Code of Meeting Practice, Code of Conduct, Developer Contributions Plan.</li> <li>• Suggestions for improved terminology, formatting, public submissions.</li> </ul> <p><b>Staff comments</b></p> <p>The Community Engagement Strategy (2022) is a current document and can be found on Council’s website. The Draft Community Engagement Strategy 2024 to 2028 is a new document.</p> <ul style="list-style-type: none"> <li>• 2022 <a href="#">Community Engagement Strategy - Byron Shire Council</a></li> <li>• 2024 <a href="#">Draft Community Engagement Strategy 2024 to 2028 - Byron Shire Council</a></li> </ul> <p>In relation to the combination of the Community Engagement Strategy and the Community Participation Plan (CPP) it was noted in the report to Council on 24 October, that the CPP is due to be updated next year (2025) and when the Community Engagement Strategy is updated in 2028, the two documents will be consolidated.</p> <p>The Your Say page references Council’s IP&amp;R framework, and it also provides people the option to receive a hard copy of the</p>

# BYRON SHIRE COUNCIL

Submission	Summary
	<p>document draft strategy.</p> <p>Information about the GIPA process is on Council's website.</p> <p>Council committees were referenced on p.19.</p> <p>The feedback relating to including additional information, links etc is noted.</p>
<b>Community member</b>	<p>Supports the appointment of a Community Engagement Officer to promote issues coming before Council to the community and to be an interface between Councillors or staff.</p> <p><b>Staff comments</b></p> <p>The role of Community Engagement Officers generally involves working with staff to ensure, to the best of their ability, the community is aware of projects, and able to contribute to or take part in activities as a way of providing input or feedback. This may be through face-to-face engagement, digital engagement, workshops, meetings etc.</p> <p>A Community Engagement Officer is supporting the Byron Bay Drainage Project and other major Infrastructure projects.</p> <p>The contact details of Councillors are available on Council's website and can be provided to people by the Customer Service team. The importance of issues coming before Council is subjective and people concerned about something should contact Councillors directly to share their views.</p>
<b>Community member</b>	<p>The strategy looks good for community engagement but may be quite ambitious due to limited staff resources and time.</p> <p>The strategy was lacking in reference to older people and how we connect with that section of our community.</p> <p><b>Staff comments</b></p> <p>Noting the comments directly relating to seniors, the Corporate and Community Services team has been given a copy of this submission.</p> <p>In relation to communication and engagement, staff in the Media and Comms team impress to staff the importance of ensuring older members of the community have access to, and the ability to, provide feedback and participate in activities relating to engagement.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• Staff being available to talk on the phone, or face-to-face with people who may struggle with technology when providing</li> </ul>

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.1

Submission	Summary
	<p>feedback about a project.</p> <ul style="list-style-type: none"> <li>• Staff arranging one-one-one meetings with less-mobile community members.</li> <li>• Ensuring venues are accessible.</li> <li>• Providing information about projects in a range of ways (radio, newspaper, digital).</li> </ul>
<b>Community member</b>	<p>Concerned the rail trail was not included in the draft strategy.</p> <p><b>Staff comment</b></p> <ul style="list-style-type: none"> <li>• A response relating to the rail trail has been provided.</li> </ul>
<b>Community member</b>	<ul style="list-style-type: none"> <li>• A comprehensive engagement strategy.</li> <li>• Council should do more to promote its achievements.</li> <li>• Not enough recognition of the work Council does in relation to the consultation for projects.</li> </ul> <p><b>Staff comment</b></p> <p>Appreciated and noted.</p>
<b>Community member</b>	<ul style="list-style-type: none"> <li>• Community engagement strategy is quite adequate.</li> <li>• Plans for engagement via a workshop style are encouraging.</li> <li>• The Heritage Advisory Committee was a mostly positive experience and disappointed that it is not proceeding in this council term.</li> </ul> <p><b>Staff comments</b></p> <p>Feedback about heritage and capital works has been passed on to SEE Director Shannon Burt and IS Director Phil Holloway.</p>
<b>Community member</b>	<p>Feedback presented was for the Future Pool and Aquatic Facilities consultation and was forwarded to the project officer.</p>

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

5 **Report No. 13.2 PLANNING - Post Exhibition Submissions Report - 26.2024.1.1 - Planning Proposal to amend Byron Local Environmental Plan 2014 to introduce a Heritage Conservation Area and additional Items at Federal**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Cameron Thiessen, Land Use Planner

10 **File No:** I2024/1610

### Summary:

15 This report presents the public exhibition outcomes of the Planning Proposal for an amendment to Byron Local Environmental Plan 2014 (Byron LEP 2014) for the introduction of a Heritage Conservation Area (HCA) and additional Heritage Items in Federal Village.

20 The proposed amendments seek to specifically amend *Schedule 5 – Environmental heritage* of the Byron LEP 2014 and will include the addition of twelve (12) Heritage Items in Part 1, the Heritage Conservation Area in Part 2, and the associated mapping updates. The items and HCA have been assessed as being of Local Significance under Heritage NSW levels of heritage significance.

The twelve (12) Heritage Items include twenty-two (22) privately owned and two (2) publicly owned sites. The HCA includes twenty (20) privately owned and two (2) publicly owned sites.

25 Forty-five (45) public submissions were received during the 28-day exhibition period. An additional three (3) submissions were received after the closing date of the exhibition period.

30 Agency responses were received from the NSW Rural Fire Service (RFS) and Heritage NSW in accordance with the Gateway Determination. The RFS correspondence raised no concerns or issues in relation to bush fire for the proposal. Heritage NSW advised that the listing of the proposed local heritage items rests with Council.

In accordance with the Gateway Determination, Council is the delegated plan making authority in this instance and the Planning Proposal is to be finalised by **1 April 2025**.

35 Based on feedback from affected landowners, the report recommends not proceeding with the proposed changes to the Byron LEP 2014. Instead, it suggests using the "Heritage Character Area" from Chapter E6 of the Byron DCP 2014 and conducting a further review of the DCP as part of Operational Plan Activity 4.1.3.13 and Action 5 of the Masterplan. It

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

also supports amending *Schedule 5 – Environmental Heritage, Part 1 Heritage items* to include Item 8 only, in the next Byron LEP 2014 Housekeeping amendment.

### NOTE TO COUNCILLORS:

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

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### RECOMMENDATION:

#### That Council:

- 15 1. **Does not proceed with the proposed heritage amendment to the Byron LEP 2014 for the Federal Village based on the submissions and further consultation;**
2. **Maintains instead the current *Schedule 5 – Environmental Heritage* and relies on the “Heritage Character Area” as shown in Chapter E6 of the Byron DCP 2014 for the Federal Village;**
- 20 3. **Requests staff progress with an additional review of the Chapter E6 of the Byron DCP 2014 for the Federal Village. DCP to provide further controls to protect the village character of Federal as per Operation Plan Activity 4.1.3.13, to reflect the vision principles and character statement of the Federal Village Masterplan (Action 5 Federal Village Masterplan); and**
- 25 4. **Supports amending *Schedule 5 – Environmental Heritage, Part 1 Heritage items* to include Item 8 only, in the next Byron LEP 2014 Housekeeping amendment.**

#### Attachments:

- 30 1 26.2024.1.1 - Planning Proposal - Federal HCA and Items with SHI Forms - Post Gateway - Public Exhibition Version, E2024/130228 
- 2 26.2024.1.1 Federal Village Heritage conservation Area Public Submissions Combined\_Redacted, E2024/140777 
- 3 Template - Form of Special Disclosure of Pecuniary Interest, E2012/2815 

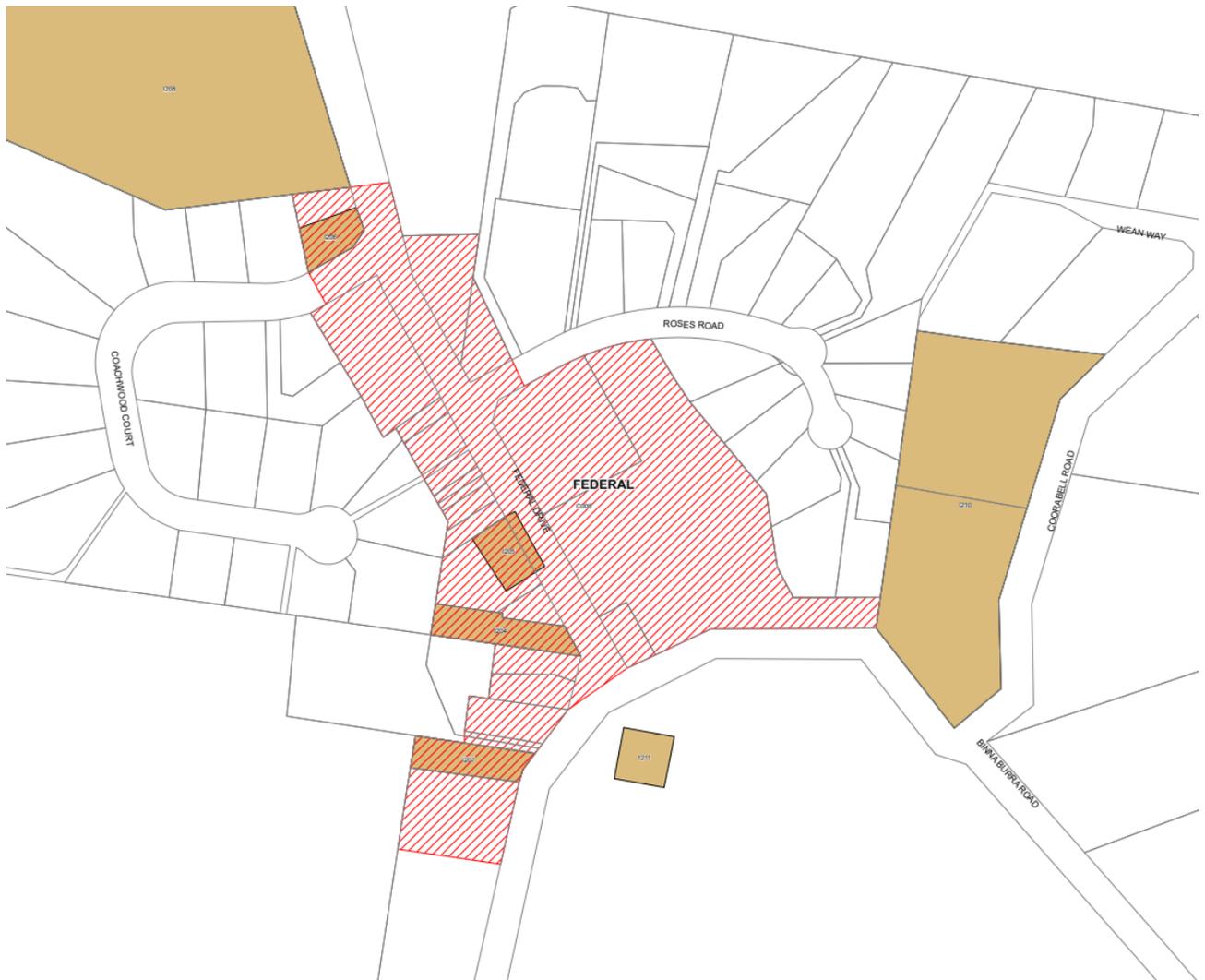
35

Report

Background

- 5 Council at its 13 June 2024 Planning Meeting resolved ([24-259](#)) to proceed with a Planning Proposal (Attachment 1) which seeks to create a Heritage Conservation Area and to list additional Heritage items within the Village of Federal (Figures 1 and 2). This would update 'Schedule 5 – Environmental Heritage' and the relevant Heritage Maps of Byron LEP 2014 to introduce 12 new heritage items, consisting of 22 individual items/sites and a Heritage Conservation Area (HCA) consisting of 20 properties and 2 council owner properties.
- 10 A Gateway determination was issued on the 1 October 2024 and the Planning Proposal has been publicly exhibited and relevant Government agencies were consulted.

In accordance with the Gateway Determination Council has delegation to exercise its plan making functions in this instance and the proposed LEP is to be finalised by 1 April 2025.



15 *Figure 1 Federal Village Heritage Conservation Area mapping*

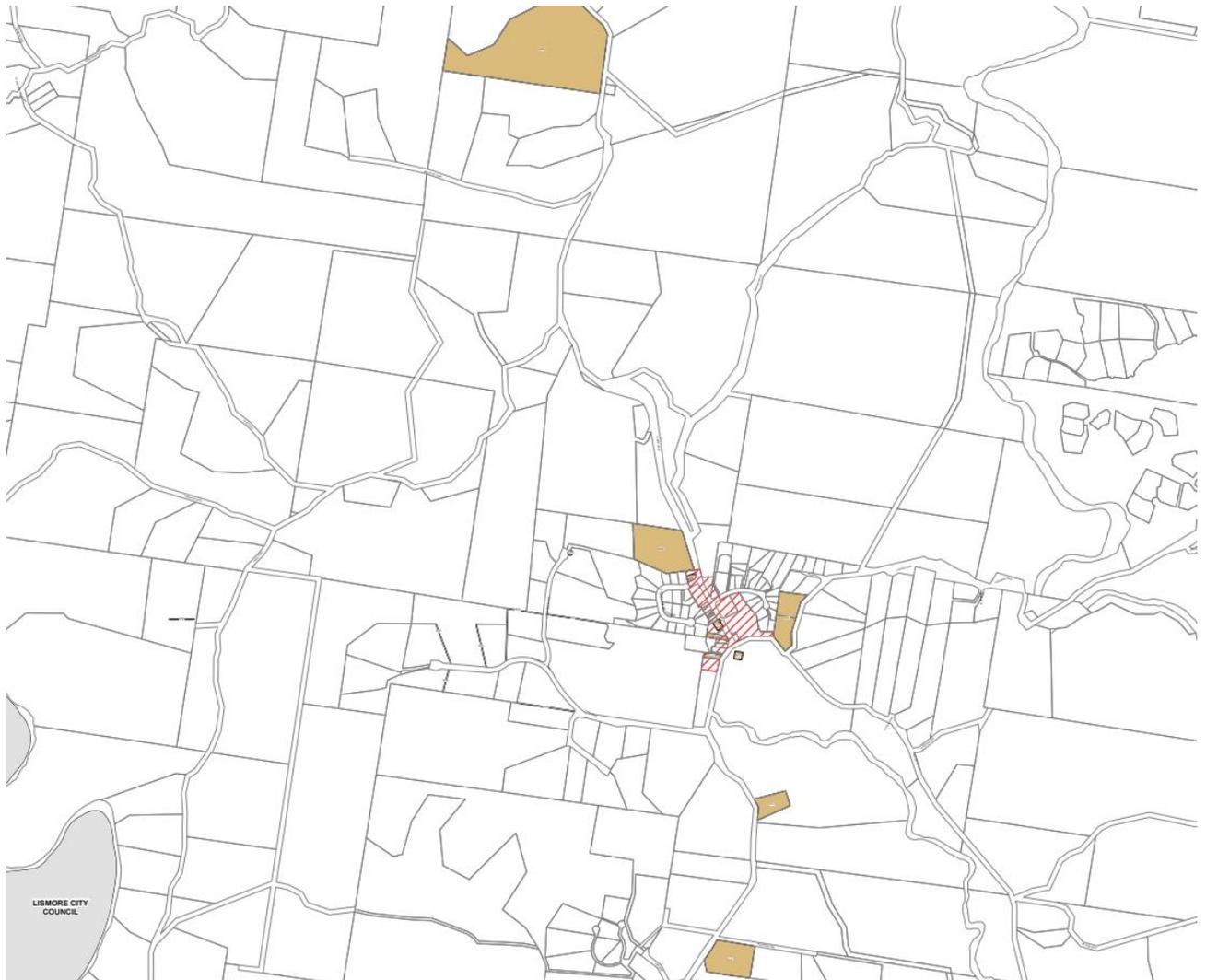


Figure 2 Federal Heritage Items and Conservation Area mapping

**Heritage**

-  Conservation Area - General
-  Item - General

5

Public submissions

The Planning Proposal was publicly exhibited, in accordance with the Gateway Determination, from 31 October 2024 to 28 November 2024. Forty-five (45) public submissions (refer Attachment 2) were received during the 28-day exhibition period. An additional three (3) submissions were received after the closing date of the exhibition period. Thirteen (13) landowners objected to the heritage listing of their properties as Items (Items: 1, 2, 3, 4, 5, 6, 9, 10, 11 & 12) and these are recommended for removal from the Planning Proposal.

10

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

5 The majority of submissions received do not support the proposed heritage listings and heritage conservation area. The main reasons for objection included but are not limited to; concern the property was not worthy of heritage listing; cost of maintenance; complexity of seeking approval for minor work such as painting; concern about impact on property values; and concerns regarding the community consultation process.

Two (2) landowners supported their heritage listing as Items (Item 8, and one of the owners of a Dry Stone Wall). Item 7 is recommended for removal due to Land zoning conflicts and an Aboriginal Land Claim.

10 Thirteen (13) landowners specifically objected to the establishment of a Heritage Conservation Area, and three (3) were in support.

In response to the number of submissions received and the issues raised, staff arranged an additional consultation opportunity for landowners on 7 February 2025 to discuss their specific concerns with Council's Heritage Advisor and staff.

#### Consideration and treatment of matters raised in submissions

15 Heritage listings are a vexed land use consideration particularly for landowners.

20 Typically, where a landowner has objected to the heritage listing of their property, it is recommended by staff that the item is removed from the planning proposal. This is despite any potential or inherent heritage value noted through the assessment process. This is done to remove any perception that Council (in this instance) is imposing a heritage listing on a property without the support of affected landowners.

It remains open to Council however at the time of reporting the planning proposal for finalisation to list properties or items that it believes otherwise should be listed. See 'Options for Council to consider' below.

25 Further, it is recommended that the listing of the proposed Crown Land sites be removed from the planning proposal due to land zoning conflicts and the existence of an Aboriginal Land Claim on one of the sites. Council owned Federal Park and Tennis Court are also removed from the planning proposal at the request of council's Manager Open Spaces and Facilities.

30 Table 1 provides a summary of the landowner submissions along with staff comment. The Planning Proposal (exhibition version) is contained in Attachment 1 to this report.

**Table 1 – Summary of submissions**

Submission Issues	Staff comment
<p>Heritage Conservation Area (HCA)</p> <p>Most of the submissions in relation to the proposed HCA questioned the rationale to propose a Heritage Conservation Area for the village when Chapter E6 of the DCP already contains a “Heritage Character Area” that has been adequate for addressing heritage issues to date.</p> <p>Three (3) submissions were received in support of the proposed HCA, thirteen (13) objections were received.</p>	<p><b>Recommendation</b></p> <p>Do not proceed with the proposed HCA and rely on the “Heritage Character Area” as shown in Chapter E6 of the Byron DCP 2014. Undertake additional review of the DCP to provide further controls to protect the village character of Federal.</p>
<p>Item 1</p> <p>The Tin Shed – 441 Federal Drive, Federal</p> <p>Landowner does not support listing and considers the existing Federal “Heritage Character Area” is a good middle ground.</p> <p>The shed has been renovated and altered by various tenants.</p>	<p><b>Recommendation</b></p> <p>Remove Item 1 from this planning proposal.</p>
<p>Item 2</p> <p>Federal General Store – 447 Federal Drive, Federal</p> <p>Landowner has not responded to the public exhibition of the planning proposal.</p>	<p><b>No response received</b> (refer to options at end of report)</p>
<p>Item 3</p> <p>Diary Bails – 2 Coachwood Court, Federal</p> <p>Landowner has expressed support of the HCA but removal of the Dairy Bails as an Item due to its dilapidated condition.</p>	<p><b>Recommendation</b></p> <p>Remove Item 3 from this planning proposal.</p>
<p>Item 4</p> <p>Former Butchers Shop – 429 Federal Drive, Federal</p> <p>Landowner objection to the proposed listing on the grounds of lack of</p>	<p><b>Recommendation</b></p> <p>Remove Item 4 from this planning proposal.</p>

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

Submission Issues	Staff comment
accurate research and changes that have been made to the original fabric.	
<p>Items 5</p> <p>Dwelling – Risley’s Farmhouse – 477 Federal Drive, Federal</p> <p>Landowner objection to the proposed listing due to the current condition of the dwelling and changes that have been made to the original fabric.</p>	<p><a href="#">Recommendation</a></p> <p>Remove Item 5 from this planning proposal.</p>
<p>Item 6</p> <p>Dwelling – Beechgrove – 711 Federal Drive, Federal</p> <p>Landowner objection to the proposed listing due to the current condition of the dwelling and changes that have been made to the original fabric.</p>	<p><a href="#">Recommendation</a></p> <p>Remove Item 6 from this planning proposal.</p>
<p>Item 7</p> <p>School Residence and Pony Paddock – 898 Binna Burra Road, Federal</p> <p>A portion of the two lots is mapped as “Deferred Matter” and the Pony Paddock (Parcel No. 105960), off Coorabell Road, is the subject of an Aboriginal Land claim. Crown Land is the owner of both lots.</p>	<p><a href="#">Recommendation</a></p> <p>Remove Item 7 from this planning proposal.</p>
<p>Item 8</p> <p>Dwelling – W.F. Keys Farm – 911 Binna Burra Road, Federal</p> <p>Landowner supportive of the proposed listing. Has requested the mapping of the curtilage better reflect the location of the dwelling.</p>	<p><a href="#">Recommendation</a></p> <p>Include Item 8 as a contributory Item for future Heritage assessments of Federal as part of a future Housekeeping LEP amendment.</p>

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

Submission Issues	Staff comment
<p>Item 9</p> <p>Dwelling – former Shackel Farmhouse – 366 Federal Drive, Federal</p> <p>Landowner objection to the proposed listing due to the substantial changes that have been made to the original fabric.</p>	<p><a href="#">Recommendation</a></p> <p>Remove Item 9 from this planning proposal.</p>
<p>Item 10</p> <p>Dwelling – Brookbank – 4 Macadamia Lane, Federal</p> <p>Landowner objection to the proposed listing due to the substantial changes that have been made to the original fabric.</p>	<p><a href="#">Recommendation</a></p> <p>Remove Item 10 from this planning proposal.</p>
<p>Item 11</p> <p>Coolamon tree – 46 Callistemon Drive, Federal</p> <p>Landowner does not support listing on the basis that the tree already has protection under other planning instruments and the listing would pose an additional financial burden.</p>	<p><a href="#">Recommendation</a></p> <p>Remove Item 11 from this planning proposal.</p>
<p>Item 12</p> <p>Dry Stone Walls – Various Lots</p> <p>Seven (7) Dry Stone Walls are proposed for listing, affecting a total of ten (10) landowners. One (1) landowner indicated support for the wall on their property, seven (7) other landowners objected, three (3) owners did not respond. A total of fifteen (15) objections were received in relation to this item. The objections consisted of criticism of the assessment process, the significance of the walls, and a perceived financial and bureaucratic burden placed on owners.</p>	<p><a href="#">Recommendation</a></p> <p>Remove Item 12 from this planning proposal.</p>

**Options for Council to consider**

There are three options for Council to consider:

Option 1.

- 5 Proceed with the heritage amendment to Byron LEP 2014, *Schedule 5 – Environmental Heritage*, as per the Gateway determination and as exhibited to introduce a Heritage Conservation Area and additional Heritage Items in Federal Village. The planning proposal will be sent to Parliamentary Counsel for legal drafting, followed by the Department of Planning, Housing and Infrastructure for notification.

Option 2.

- 10 Not proceed with the proposed heritage amendment to the Byron LEP 2014 based on the submissions and further consultation. This option maintains the current *Schedule 5 – Environmental Heritage* and relies on the “Heritage Character Area” as shown in Chapter E6 of the Byron DCP 2014.
- 15 Staff to progress with an additional review of the DCP to provide further controls to protect the village character of Federal as per Operation Plan Activity 4.1.3.13, to reflect the vision principles and character statement of the Federal Village Masterplan (Action 5 Federal Village Masterplan).

Option 3. (RECOMMENDED)

- 20 Not proceed with the proposed heritage amendment to the Byron LEP 2014 based on the submissions and further consultation. This option maintains the current *Schedule 5 – Environmental Heritage* and relies on the “Heritage Character Area” as shown in Chapter E6 of the Byron DCP 2014.
- 25 Staff to progress with an additional review of the DCP to provide further controls to protect the village character of Federal as per Operation Plan Activity 4.1.3.13, to reflect the vision principles and character statement of the Federal Village Masterplan (Action 5 Federal Village Masterplan).
- Amend *Schedule 5 – Environmental Heritage, Part 1 Heritage items* to include Item 8 only, in the next Byron LEP Housekeeping amendment.

Noting the landowner supports listing of item 8.

30

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.3: Town / Village Masterplans - Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.3.13	Commence scoping of the Local Environmental Plan and Development Control Plan review to reflect the vision, principles and character statement of the Federal Village Masterplan (Action 5 Federal Village Masterplan)

### Recent Resolutions

- 5
  - 23-188: 25 May 2023 Ordinary Meeting – Report of the Heritage Advisory Committee Meeting held on 20 April 2023, I2022/1279
  - 24-259: 13 June Planning Meeting - 26.2024.1.1 - Planning Proposal to introduce Federal Heritage Conservation Area and additional heritage items, I2024/749

### 10 Legal/Statutory/Policy Considerations

This planning proposal (as exhibited) seeks to amend the Byron Local Environmental Plan 2014, Schedule 5 Environmental Heritage.

The Byron Shire Heritage Strategy (2020–2024) includes the following action in relation to the local area’s heritage:

- 15
  - **“Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan** - Maintain, review, and update the Byron LEP 2014 Heritage Schedule and accompanying State Heritage Inventory database.”

The relevant legal/statutory/policy considerations have been complied with in accordance with the Gateway determination for this planning proposal.

### 20 Financial Considerations

This is a Council initiated planning proposal and will be funded from within existing budgets.

The listing of a site as a heritage item on the Local Environmental Plan will assist property owners in applying for Council's Heritage Assistance Funds as well as State Government grants.

### **Consultation and Engagement**

- 5 The initial community consultation outlining the proposed Federal Village Heritage Conservation Area and potential Heritage Items occurred in the 28 days preceding 29 November 2023. Four submissions were received.

The post-Gateway public exhibition of the planning proposal occurred in accordance with the Gateway Determination for a period of 28 days concluding on 28 November 2024.

- 10 In response to the number of submissions received and the issues raised, staff arranged an additional consultation opportunity for landowners to discuss their specific concerns with councils Heritage Advisor and staff on 7 February 2025.

**Report No. 13.3      PLANNING - DA 10.2024.305.1 – Alterations and additions to livestock processing industry including part demolition, tree removal, road upgrades, and ancillary works, 10 Cudgerie Gully Lane, Booyong**

5

**Directorate:** Sustainable Environment and Economy

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

**File No:** I2024/1719

**Proposal:**

<b>DA No:</b>	10.2024.305.1		
<b>Planning Portal ref</b>	PAN-455923		
<b>Proposal description:</b>	Alterations and additions to livestock processing industry including part demolition, tree removal, road upgrades, and ancillary works.		
<b>Property description:</b>	LOT: 2 DP: 863643		
	10 Cudgerie Gully Lane BOOYONG		
<b>Parcel No/s:</b>	269587		
<b>Applicant:</b>	Geolink Consulting Pty Ltd		
<b>Owner:</b>	Northern Co-Operative Meat Company Ltd		
<b>Zoning:</b>	RU2 Rural Landscape BLEP 2014, 1(a) (General Rural Zone) BLEP 1988		
<b>Date received:</b>	17 September 2024		
<b>Integrated / Designated Development:</b>	<input checked="" type="checkbox"/> Integrated	<input type="checkbox"/> Designated	<input type="checkbox"/> Not applicable
<b>Concurrence required</b>	Yes – Environmental Protection Licence for Scheduled Development on Premises.		
<b>Public notification</b>	– Level 2 advertising under Council’s Community Participation		

## BYRON SHIRE COUNCIL

<b>or exhibition:</b>	<p>Plan.</p> <ul style="list-style-type: none"> <li>– Exhibition period: 16 September 2024 to 10 October 2024.</li> <li>– Submissions received: 14 submissions from 6 unique submission authors.</li> <li>– Submissions acknowledged: <input checked="" type="checkbox"/> Yes   <input type="checkbox"/> No</li> </ul>
<b>Planning Review Committee</b>	<p>Considered at the Planning Review Committee Meeting of 31 October 2024 and called to Council for determination due to the perceived public significance of the application.</p>
<b>Variation request to Development Standards under an EPI (e.g., clause 4.6)</b>	<p><b>Clause 4.6</b></p> <p><b>Name of clause</b> – Height of Buildings.</p> <p><b>Clause number</b> – 4.3.</p> <p><b>Percentage value of variation sought</b> – 10%.</p> <p><b>Percentage value of the variation approved</b> – Recommend approval of the proposed variation.</p> <p><b>Brief justification for the variation</b> – The height and scale of the building is appropriate in the context of an established livestock processing facility and will not result in a significant visual impact, disruption of views or loss of solar access in relation to surrounding development.</p>
<b>Estimated cost</b>	<p>\$6,951,369.00</p>
<b>Delegation to determine</b>	<p>Council</p>
<b>Issues</b>	<p>Noise and amenity impacts associated with the operation of the existing facility.</p>

### Summary:

This application seeks approval for alterations and additions to the Casino Food Co-op livestock processing facility at 10 Cudgerie Gully Lane, Booyong, located approximately 8km south-west of Bangalow and 5km south-east of Clunes.

- 5 The proposed development includes an extension to the main abattoir building for pre-processing, along with a new truck enclosure, loading ramp, administration building, demolition of existing sheds and offices, road upgrades, tree removal, and reconfiguration of internal manoeuvring areas.

- 10 These changes will not significantly alter the facility's current operations. While some existing equipment will be replaced, the function and purpose of the new equipment will remain the same, and there will be no changes to operational hours or staffing levels.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

5 The applicant has also requested modifications to several consent conditions from previous approvals under s.4.17(1)(b) of the Act, aiming to standardize conditions across various development consents for the site. These modifications primarily involve removing or altering conditions related to noise and amenity, as well as the proposed removal of the current processing cap of 5,000 pigs per week.

Livestock processing at the facility requires an environmental protection license under s.43 of the Protection of the Environment Operations Act 1997. The NSW Environment Protection Authority issued general terms of approval on 3 October 2024 which are generally the same as existing licence conditions, except for the additional of noise criteria.

10 As detailed in this report, the proposed alterations and additions are unlikely to significantly intensify or change the impacts of the existing operations. The truck enclosure is expected to reduce noise from unloading livestock, while the new equipment will improve operational safety and efficiency, as well as enhance animal welfare, waste management, and water usage.

15 The applicant's request to modify existing conditions on noise and amenity is considered reasonable, particularly with the introduction of consistent operating hours and defined noise thresholds. However, the request to remove the processing cap of 5,000 pigs per week is not supported, as it may increase traffic on Pearces Creek Road and intensify environmental impacts, without adequate evidence of how these issues can be effectively managed.

20 The proposed extension exceeds the 9m height limit set by Clause 4.3 of the Byron LEP 2014, with a height of 9.9m above existing ground level. The applicant has submitted a written request to vary the development standard under Clause 4.6 of the BLEP 2014, which is considered to be well founded. The height and scale of the new extension are appropriate for an established livestock facility and will not result in significant visual impacts or obstruction of surrounding views.

25 The development application was publicly exhibited for 14 days, in accordance with the Community Participation Plan, and 14 submissions from 6 different authors were received during the exhibition period. The main concerns raised in the submissions were noise, odour, traffic safety, and environmental impacts, with noise being the primary issue, particularly early morning and late evening disturbances.

30 To address these concerns, Council's Environmental Health Officer recommends a post-completion acoustic assessment to measure facility-generated noise and suggest mitigation measures to meet the NSW Noise Policy for Industry. Such measures may include equipment shielding or operational adjustments, which should be implemented within 90 days of Council's approval. Additionally, it is recommended that conditions be placed to restrict heavy vehicle deliveries to daytime hours.

35 In conclusion, the proposed alterations and additions are considered an acceptable response that will not significantly increase the environmental impact of the livestock processing facility. Existing land use conflicts concerning noise and odour are recognised, and conditions are recommended to improve the management of these issues moving forward.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

The application has been assessed against the relevant State Environmental Planning Policies, Byron LEP 2014, and Byron DCP 2014, and is found to be generally compliant.

The development application is recommended for approval, subject to the conditions outlined in Attachment 1.

5 NOTE TO COUNCILLORS:

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

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### RECOMMENDATION:

15 **That pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, Development Application No. 10.2024.305.1 for alterations and additions to livestock processing industry including part demolition, tree removal, road upgrades, and ancillary works, be granted consent subject to the conditions of approval in Attachment 1.**

### Attachments:

20

- 1 10.2024.305.1 Recommended Conditions of Consent, E2025/18062 
- 2 10.2024.305.1 Architectural Plans, E2025/19737 
- 3 Confidential - 10.2024.305.1 Submissions (Confidential), E2025/17618
- 4 10.2024.305.1 Noise Report, E2025/20160 

25

## Assessment:

### 1. INTRODUCTION

#### 1.1 History/Background

5 Livestock processing has occurred on the site since about 1935. Over time, the facility has undergone significant expansion and upgrading to meet contemporary operating standards. The facility is export accredited and currently focuses on processing pigs. Other livestock species such as cattle are processed at the Co-op's abattoir in Casino.

10 The facility operates under existing use rights in conjunction with several development consents issued between 1973 and 2002. Council recently approved a major renovation to the facility in March 2022, although the applicant at this point in time has stated that the Co-op has no intention of acting on this consent.

The following determinations are relevant to subject application:

- 15 • **BA 6.1973.2139.1** – Building Permit 73/139 for the construction of a slaughterhouse on the property was approved 22 August 1973.
- 20 • **DA 5.1990.153.1** – Development Consent 90/153 for alterations and additions to an existing meatworks facility, including extension of amenities, storage shed, covered holding pens and covered boiling room, was issued on 1 June 1990.
- 25 • **BA 6.1991.2596.1** – Building Permit 91/596 for extensions to an existing animal by-products building was approved on 17 December 1991.
- 30 • **DA 5.1996.386.1** – Development Consent 96/386 for alterations and extensions to a meat processing plant was granted on 24 December 1996. This consent allowed a change in the nature of the facility's operations from a "multi-species" abattoir to one processing only pigs.
- 35 • **DA 5.1996.386.2** – Development Consent 96/386 was modified on 13 February 1997 to delete Condition B2 and Modify Condition D7 to allow up to 5000 pigs to be processed per week.
- **DA 10.2002.693.1** – Development Consent 2002/693 for extensions to an existing abattoir was issued on 25 March 2003.
- **DA 10.2022.143.1** – Development Consent 2022/693 for alterations and additions to livestock processing industry was issued on 22 March 2024. This consent will likely not be exercised as it will require the abattoir to cease operations during the construction phase which the applicant states is not financially viable.

## 1.2 Description of the proposed development

5 This application seeks consent for alterations and additions to the Casino Food Co-op livestock processing facility located at 10 Cudgerie Gully Lane, Booyong. The proposal includes partial demolition of the existing building, additions, new loading facilities, road upgrades, vegetation removal and associated works.

The proposed development is intended to improve the safety and operational efficiency of the facility while also enhancing animal welfare and reducing livestock noise, waste generation, water use and electricity consumption.

10 The proposal will not significantly affect any activities currently undertaken on site. Some existing equipment will be replaced, but the purpose and function of the new equipment will be unchanged. Similarly, hours of operation and staffing numbers will not be altered.

The following works are proposed in detail:

- (a) Alterations and additions to the administration building.
- (b) Construction of a 'dirty building' extension to the main processing facility.
- 15 (c) Construction of a new truck enclosure bay and ramp with covered unloading areas.
- (d) Removal of native and exotic vegetation within an existing garden bed and the establishment of compensatory plantings on another part of the site.
- (e) Reconfiguration of the internal vehicular circulation network including augmentation of roads and turning areas.
- 20 (f) Repairs and upgrades to Cudgerie Gully Lane from the northern side of the culvert that crosses Cudgerie Gully Creek to the entrance to the abattoir, including:
  - (i) road widening.
  - (ii) provision of a pullover/passing bay for large vehicles, and
  - (iii) provision of regulatory signage.

25



Figure 1: Site plan extract with new building components highlighted in Yellow.

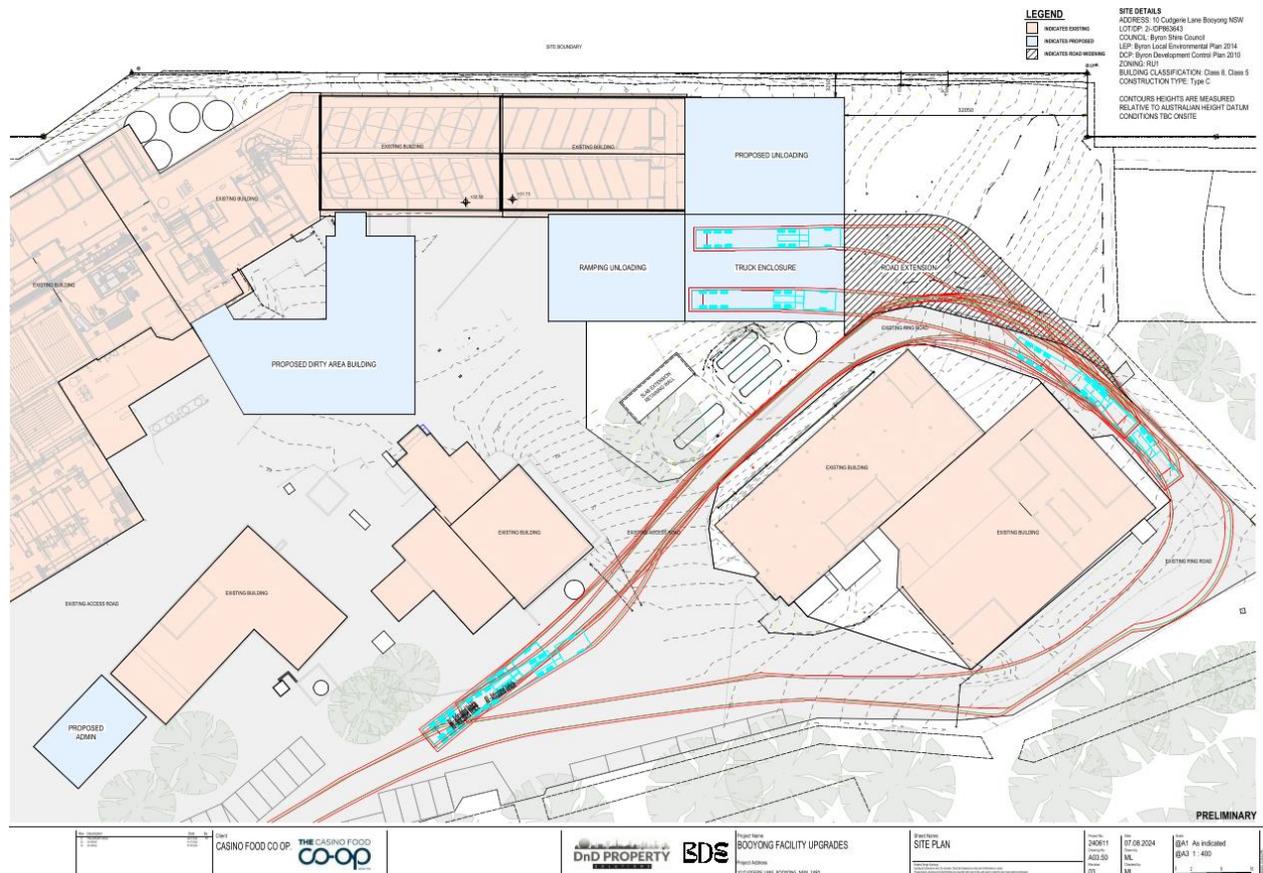


Figure 2: Inset site plan with new building components highlighted in Blue

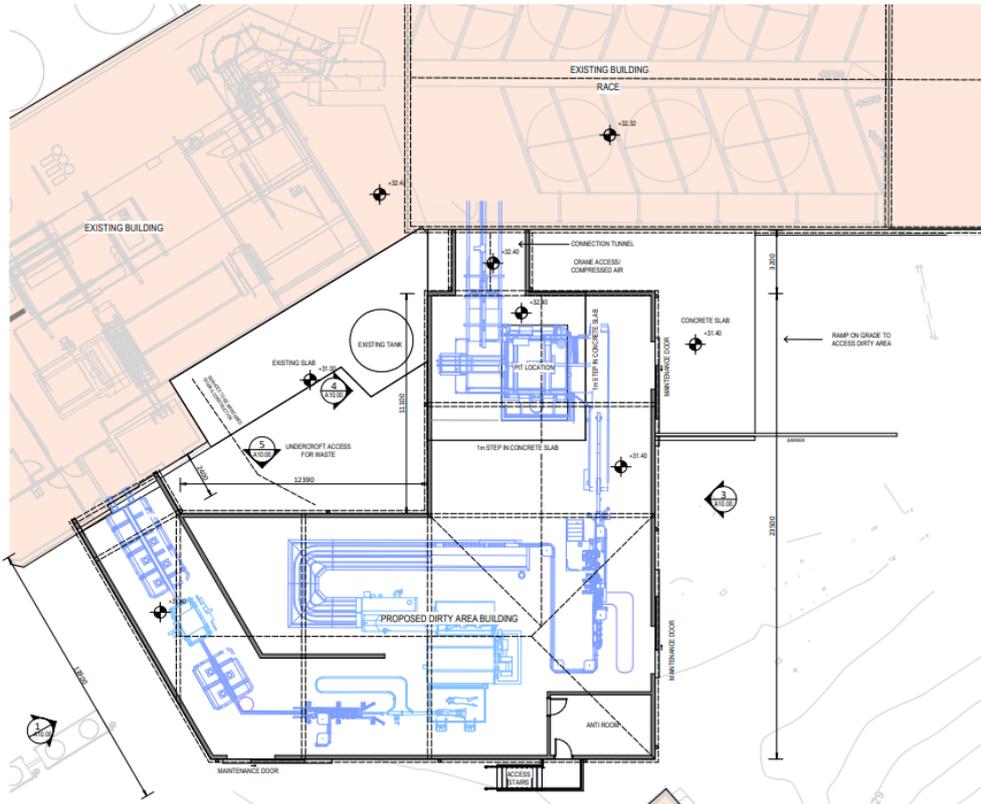


Figure 3: Proposed dirty building extension plan

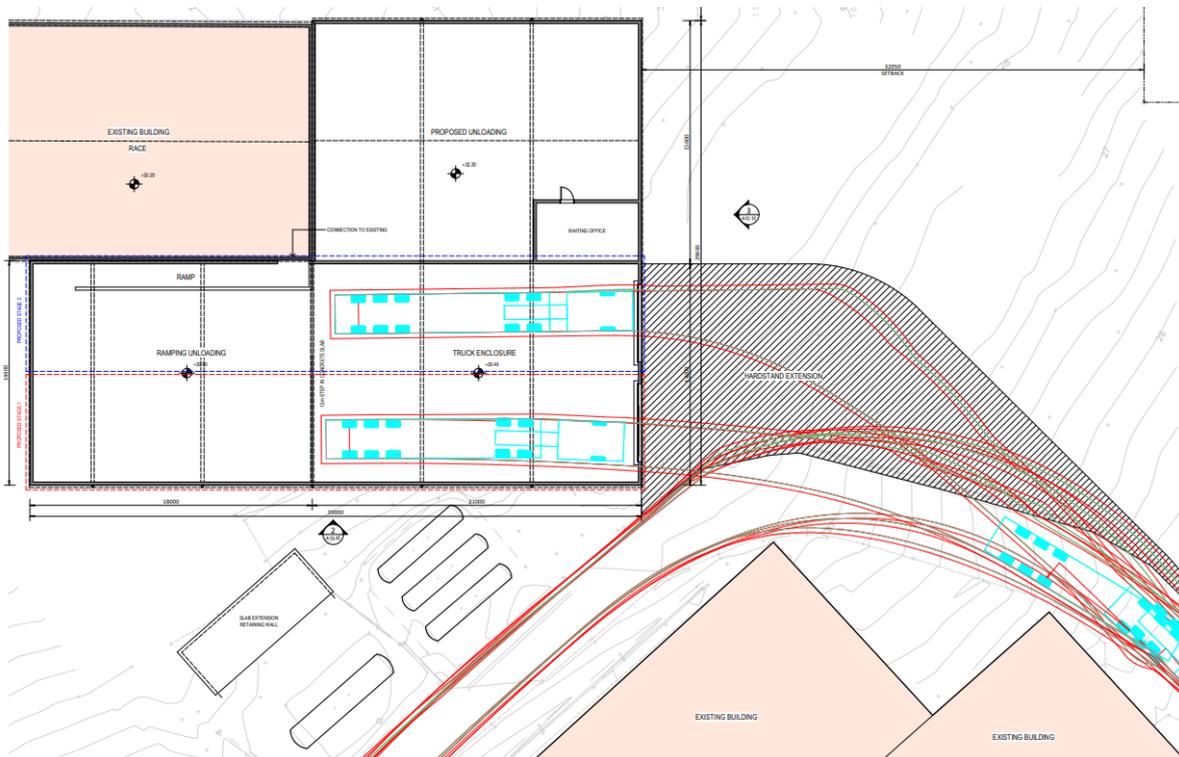


Figure 4: Proposed unloading ramp and enclosure plan.

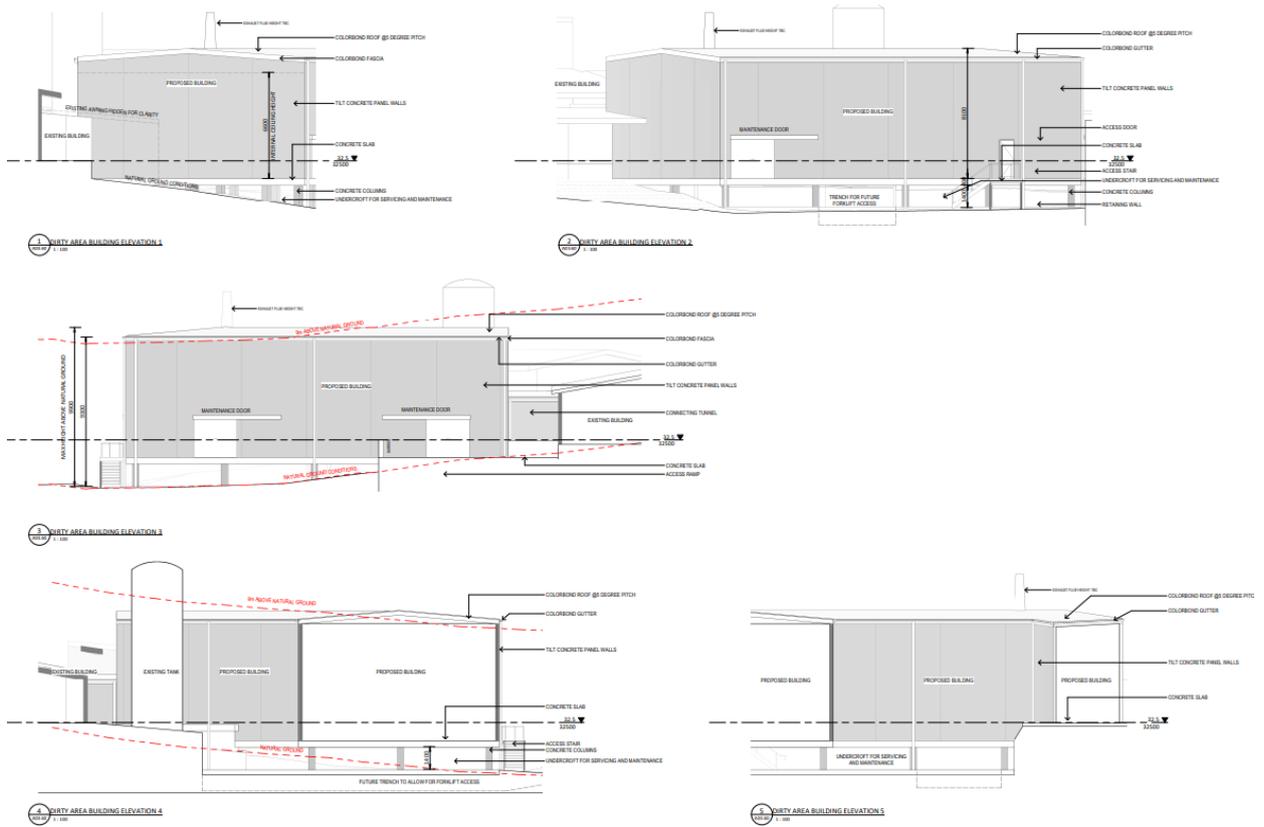


Figure 5: Elevations of proposed dirty building extension.

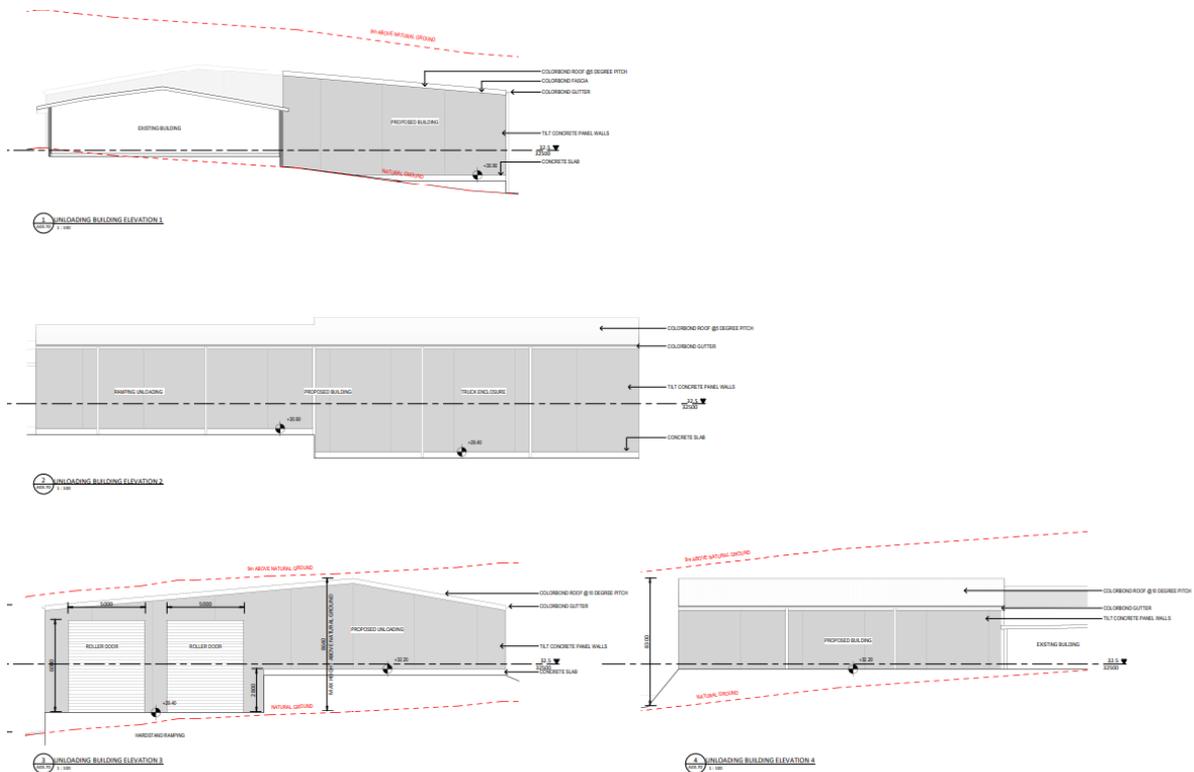


Figure 6: Elevations of proposed truck enclosure bay

**Review of consent conditions**

5 In addition to the proposed new works, the applicant has requested that several consent conditions associated with development consents 96/386 and 2002/693 be modified to assist in the practical and effective management of the facility. This is to ensure consistency across the relevant development consents applying to the land and to remove ambiguity in the interpretation of existing conditions relating to noise and amenity impacts.

10 Section 4.17(1)(b) of the Environmental Planning and Assessment Act 1979, allows a consent authority to impose a condition that modifies a previous consent in relation to the land to which the development application applies. Typically, this mechanism is used to ensure consistency between different consent conditions, particularly where old conditions have become obsolete or would conflict with new land uses and/or operational requirements. The decision to amend or alter these conditions is entirely at the discretion of the consent authority and does not form part of the proposed development for which consent is being sought under the subject application.

15 The applicant has listed the conditions for deletion or modification which are set out in Table 1 of this report.

**Table 1 – Suggested modifications to conditions for DA 96/386 (as modified)**

Existing Condition	Summary of Reason for Change
<p>Condition D.2 <i>“The use does not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke vapour, steam, soot, ash, dust, wastewater, waste products or grit, oil or otherwise”.</i></p>	<p>The term “does not interfere with the amenity of the locality” requires subjective interpretation and lacks parameters.  Therefore, the Co-op proposes some specific conditions to address traffic, noise, odour and wastewater, with an overarching amenity condition being retained for the remaining potential impacts.</p>
<p>Condition D.4 <i>“No nuisance being created by the emission of smoke, smell, gases or particulate matter”.</i></p>	<p>Similar to Condition D.2 above, this condition is subjective and lacks objective parameters.</p>
<p>Condition D.6 <i>“The use and occupation of the premises including all plant and equipment installed thereon, not giving rise to any offensive noise or vibration within the meaning of the Noise Control Act, 1975”.</i></p>	<p>This condition refers to superseded legislation and does not set quantified noise limits. It would be better to set appropriate noise limits so that compliance can be assessed. The Co-op proposes a condition that sets noise limits based on the recent noise assessment undertaken by the specialist acoustic consultant.</p>

## BYRON SHIRE COUNCIL

Existing Condition	Summary of Reason for Change
<p>Condition D.7</p> <p><i>“The plant can only process up to 5,000 pigs (maximum) per week. Any increase in numbers requires further development consent”.</i></p>	<p>A processing limit is a relatively ‘blunt instrument’ that does not guarantee appropriate management of potential environmental impacts. Importantly, a processing limit is a disincentive for the Co-op to invest in more efficient modernised processing systems and improved environmental controls, which could achieve higher processing rates with reduced (or unchanged) environmental impacts.</p>

**Table 2 – Suggested modifications to DA 2002/693**

Existing Condition	Submitted Reason for Change
<p>Condition 33</p> <p><i>“The proposed use must not be conducted in such a manner as would interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise. The noise level emanating from the use of the development must not exceed the background level by more than 5 d(B)A when measured at the boundary of the allotment”.</i></p>	<p>This condition has similar wording to Condition D.2 and requires subjective interpretation. The proposed noise limit is not consistent with current policy and does not define the ‘background level’.</p> <p>The Co-op proposes some specific conditions to address traffic, noise, odour and wastewater, with an overarching amenity condition being retained for the remaining potential impacts.</p>

### Proposed conditions and administrative updates

5 To resolve the issues described above, the Co-op proposes that the following conditions (or similar) are included for the current development application should consent be granted. The Co-op also suggests that the processing limit stipulated in Condition D7 of Development Consent 96/386 be removed and superseded by the new conditions listed below.

#### Condition P1 Heavy vehicle parking on local roads

10 Heavy vehicles serving the facility must be turned off and generate no noise if they park in the Booyong locality outside of the facility boundary. The access of refrigerated trucks to the facility must be planned so that they do not park in the Booyong locality outside of the facility boundary.

#### Condition P2 Noise limits (to address potential noise impacts)

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

Noise from the premises must not exceed the noise limits at the times and locations in the table below. Noise measurements to assess compliance with the limits must be undertaken in accordance with the method described in the relevant policy or guideline.

Receiver	Noise Limit			
	Day (7am – 6pm) LA <sub>eq,15min</sub> (dBA)	Evening (6pm – 10pm) LA <sub>eq,15min</sub> (dBA)	Night (10pm – 7am) LA <sub>eq,15min</sub> (dBA)	Night (10pm – 7am) Sleep Disturbance LA <sub>eq,15min</sub> (dBA)
R1	47	47	43	57
R2 to R6	44	44	42	52

5 **Note:** The receiver locations are as per Figure 2-1 in the Noise Assessment report prepared by Sound IN (ref: 17113-C, 22/08/2024).

#### Condition P3 Operating hours:

Activities at the premises may only be undertaken at the times specified in the table below. Activities may be undertaken outside of the specified times during emergency situations (e.g. flood).

Activity	Permitted hours
Livestock vehicle movements (inbound and outbound) and unloading of pigs into pens.	Sunday to Friday, 6am to 6pm.
Holding of pigs in pens.	Sunday, 6am to midnight; and Monday to Friday, 24 hours a day; and Saturday, 12am to 5pm.
Slaughtering of pigs.	Monday to Friday, 5.30am to 6pm, and Saturday, 8am to 5pm.
Use of mobile plant within premise boundary	Monday to Saturday, 5.30am to 6pm.
Non-slaughter activities that are inaudible at adjacent and nearby residences.	7 days a week, 24 hours a day.
Non-livestock vehicle movements (inbound and outbound).	7 days a week, 24 hours a day.
Mechanical and electrical services.	7 days a week, 24 hours a day.
Construction of building works.	Monday to Friday, 7am to 6pm; and Saturday, 8am to 1pm

10 Condition P4 Odour control (to address potential odour impacts)

The use of the facility must not cause or permit the emission of offensive odour beyond the boundary of the premises. This condition does not apply to odours from trucks travelling on public roads that deliver pigs to the facility. It is accepted that odours from livestock trucks may be considered offensive to some people, but the facility is located in an agricultural area where livestock trucks commonly operate. Therefore, odour from livestock trucks is considered to be a known, transitory, and accepted aspect of the locality.

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## BYRON SHIRE COUNCIL

Condition P5 Cleaning of livestock trucks (to address potential effluent and odour impacts)

Trucks that deliver pigs to the facility must be washed and cleaned prior to exiting the facility to prevent manure or effluent being spilt onto public roads

Condition P6 General amenity of the locality (to address other potential impacts)

- 5 The use of the development must not interfere with the amenity of the neighbourhood by reason of vibration, fumes, smoke, dust or waste. Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters. All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid. All waste storage and sewage facilities

### 10 1.3 Description of the site

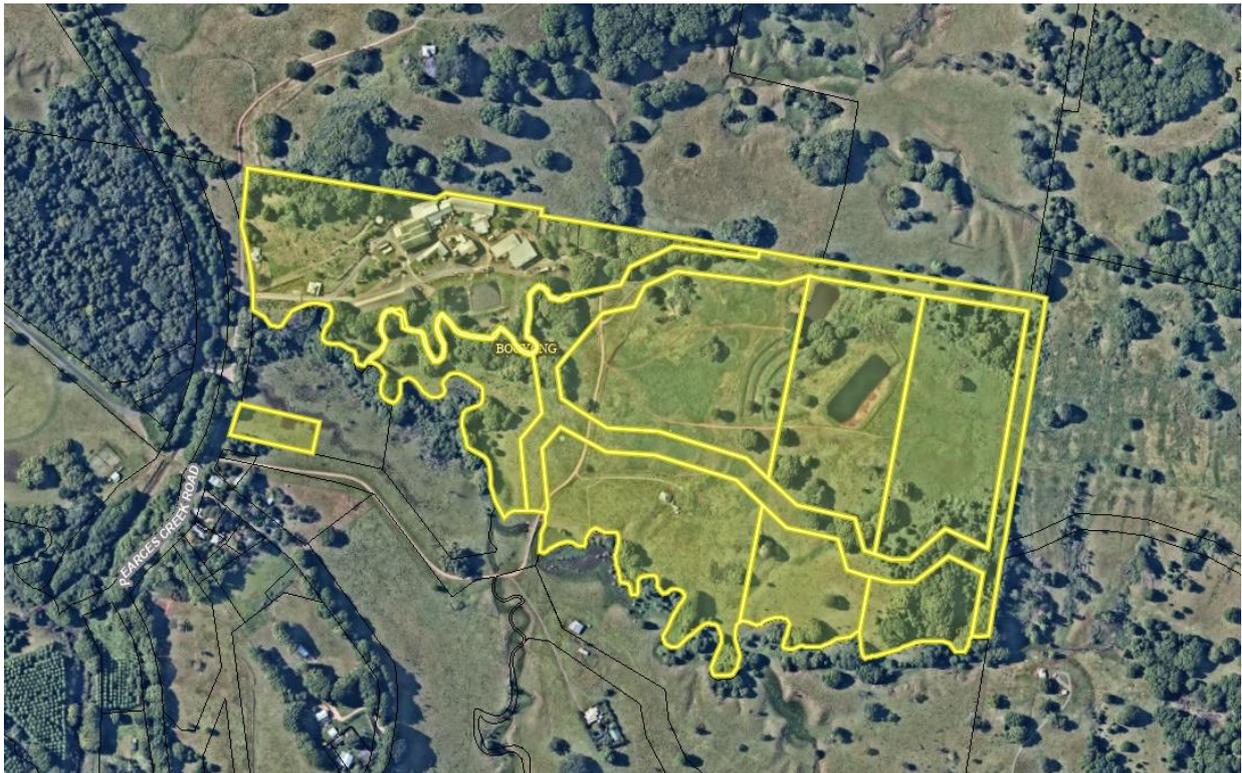
A site inspection was carried out on 14 October 2024.

Land is legally described	LOT: 2 DP: 863643	
Property address	10 Cudgerie Gully Lane BOOYONG	
Land is zoned:	RU2 Rural Landscape BLEP 2014, 1(a) (General Rural Zone) BLEP 1988.	
Land area is:	8.498 ha	
Property is constrained by:	Flood Liable Land Bushfire prone land, High Conservation Value Vegetation, Cattle Dip Buffer	
	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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

- 15 The site is located in the rural locality of Booyong, approximately 8km south-west of Bangalow and 5km south-east of Clunes. The entire livestock processing facility extends over several lots with a total area of approximately 36 ha. The main facility and the location of the proposed works are within Lot 2 DP 863643, which lies at the northern end of Cudgerie Gully Lane. The site is within the RU2 Rural Landscape zone under Byron LEP 2014.

The surrounding locality comprises farmland primarily used for cattle grazing, macadamia orchards, forestry, and rural living. A cluster of residential dwellings in the village of Booyong is located 400m to the south off Pearces Creek Road.

- 5 The Booyong Nature Reserve is located to the immediate west of the site and the Booyong Recreation Reserve adjoining the nature reserve further south. The disused Murwillumbah railway line, branch of the North Coast railway line, runs parallel to Cudgerie Gully Lane. Cudgerie Gully Creek forms part of the southern boundary of the lot and is a tributary to the Wilson River.



10 **Figure 1:** Aerial image of subject site.



**Figure 2:** View of main processing buildings and site office.



**Figure 3:** Proposed location of dirty building extension.



**Figure 4:** Main internal driveway and loading bay.



5 **Figure 5:** Loading bay area to be upgraded.



**Figure 6:** Proposed location for administration building.



**Figure 7:** Entrance to the site on Cudgerie Gully Lane.

## **2. SUMMARY OF REFERRALS**

### **External Referrals**

<b>Referral</b>	<b>Issue</b>
Environment Protection Authority (EPA)	General Terms of Approval were issued by the EPA on 3 October 2024. The general terms of approval have been included into the recommended consent conditions.
Rous County Council (RCC)	Rous County Council (RCC) made no comments in relation to water infrastructure or retail water supply. The site is not proposed to be connected to RCC water supply.
Jali Land Council	The application was referred to Jali Local Aboriginal Land Council for consideration. No comments were received.

### **Internal Referral/s**

<b>Referral</b>	<b>Issue</b>
Environmental Health Officer	Council’s Environmental Health Officer endorsed the proposed renovation of the main processing facility with a number of conditions of consent to address noise, processing limits and traffic control.
Development Engineer	Council’s Development Engineer did not raise any concerns from an engineering perspective.
Building Surveyor	A building code compliance report was provided with the application which identified a range of non-compliances with the National Construction Code (NCC).  Council’s Building Surveyor recommended that the building be brought into compliance with the NCC in accordance with the report’s recommendations. Details are to be provided for approval with the construction certificate application.

## **3. 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*’ (PBP). The site is bush fire prone land.

**Chapter 8 Other Development**

5 The proposed development satisfies the objectives and bushfire planning criteria for Class 5 to 8 Buildings under Chapter 8 of PBP. The site has safe vehicular access to a public road, is able to be safely evacuated in the event of an emergency and has adequate on-site water supply for the protection of buildings during passage of a bushfire.

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

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

**4.1 State Environmental Planning Policies (SEPP)**

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.

15 **4.2 State Environmental Planning Policies (SEPP)**

<b>Considerations</b>	<b>Satisfactory</b>	<b>Unsatisfactory</b>
<p><u>Biodiversity and Conservation SEPP 2021</u></p> <p><i>Chapter 3 Koala habitat protection 2020</i></p> <p>The site is largely cleared of vegetation aside from landscaping and a band of Camphor laurel forest extending along two gullies in the southern part of the site.</p> <p>Less than 15% of trees in the upper and lower strata of the vegetation comprise koala feed tree species listed in Schedule 1 of the Biodiversity SEPP. Council is therefore able to grant consent to the application without requiring the preparation of a koala plan of management.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><b>Resilience and Hazards SEPP 2021</b></p> <p><u>Chapter 3 Hazardous and offensive development</u></p> <p>The Department of Planning’s <i>Hazardous and Offensive Development Application Guidelines</i> (formerly applying to SEPP 33) states that the SEPP will apply only if the</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

# BYRON SHIRE COUNCIL

Considerations	Satisfactory	Unsatisfactory
<p>proposed use or modifications are considered potentially hazardous or offensive in their own right. The SEPP could also apply if the proposed alterations and additions are not potentially hazardous or offensive in themselves but interact with the existing facility in such a way that cumulative hazards or offence from the existing facility may be significantly increased.</p> <p><i>Effect of the proposed alterations and additions</i></p> <p>The current proposal does not significantly increase or intensify the offensive nature of polluting discharge from the abattoir. On the contrary, it is likely to reduce the discharge of animal noise by relocating the truck unloading bays to a more secluded location and will not increase the effluent stream in comparison to the current situation. In that sense, the proposal is not considered to be offensive or hazardous development in its own right and Chapter 3 of the Resilience and Hazards SEPP is not applicable as per the Department's guidelines.</p> <p><u>Chapter 4 Remediation of land</u></p> <p>A preliminary site investigation report (PSI) was undertaken for the development area. Analysis of soils samples taken around the development envelope did not identify any contamination above health investigation levels. Based on the available information, the site is considered to be suitable for ongoing livestock processing in its current state and does not require remediation.</p>		
<p><b>Transport and Infrastructure SEPP 2021</b></p> <p>The proposed alterations and additions will not generate more than 200 vehicle movements per hour and therefore the development application does not need to be referred to TfNSW under s2.122 as traffic generating development.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 4.3 Byron Local Environmental Plan 2014 (LEP 2014)

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 *Livestock Processing Industry*.

5

## BYRON SHIRE COUNCIL

- (b) The land is within the RU2 Rural Landscape according to the Land Zoning Map.
- (c) The proposed development is permitted with consent; and
- (d) Regard is had for the Zone Objectives as follows:

Zone Objective RU2 Rural Landscape Zone	Consideration
<ul style="list-style-type: none"> <li>• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</li> <li>• To maintain the rural landscape character of the land.</li> <li>• To provide for a range of compatible land uses, including extensive agriculture.</li> <li>• 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.</li> <li>• To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.</li> </ul>	<p>The proposed development will support an existing rural industry and is generally compatible with the RU2 zone objectives.</p>

### 5 Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>The proposed “dirty” building extension has a height of 9.9m and exceeds the 9m maximum building height by 900mm, or 10% of the development standard.</p> <p>Refer to LEP 2014 issues section.</p>
4.6 Exceptions to development standards	Yes	<p>The applicant has submitted a written request to vary the 9m maximum building height standard in accordance with Clause 4.6 Exceptions to development standards.</p> <p>Refer to LEP 2014 issues section.</p>

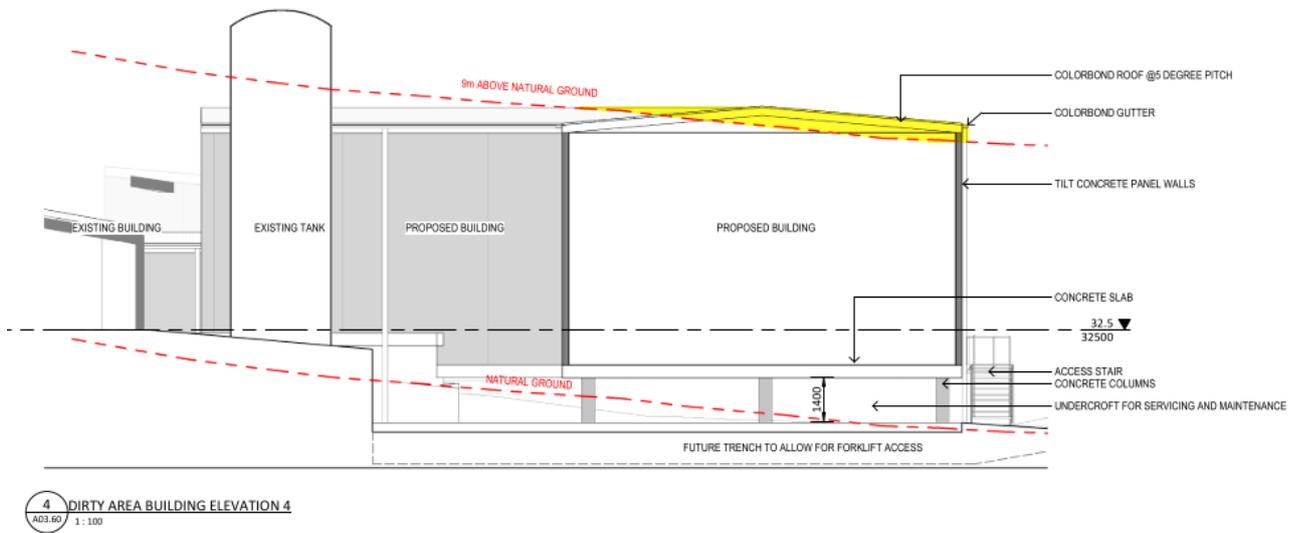
**Part 6 Additional local provisions**

Provision	Compliance	Comment
6.2 Earthworks	Yes	The proposed earthworks will not affect drainage patterns or soil stability in the area and are satisfactory having regard to the matters for consideration under Clause 6.2.
6.5 Drinking water catchments	Yes	The proposed development will not increase the volume or nature of existing effluent streams from the facility which are currently managed appropriately by the EPA under and Environmental Protection Licence. On this basis, the proposed development is unlikely to adversely affect the quality or quantity of water entering the drinking water catchment compared to the current situation.
6.6 Essential services	Yes	All utilities and services are available at the site and would be readily connected to the improved facility additions as required.  Vehicular access off Cudgerie Gully Lane is adequate and will be improved by the proposed road upgrades.

**Clause 4.6 Exceptions to Development Standards**

5 This site is subject to a maximum building height of 9m in accordance with Clause 4.3 of BLEP 2014. The proposed dirty building extension has a maximum height of 9.9m which exceeds the development standard by 0.9m or 10%.

An extract of the proposed new extension is reproduced below.



**Figure 9:** Proposed dirty building elevation with height exceedance highlighted in Yellow.

**Applicant's Written Request - Clause 4.6(3)(a) and (b)**

5 A written request has been submitted to Council in accordance with Clause 4.3 of Byron LEP 2014 seeking to justify the contravention of the development standard.

In summary, the applicant seeks to justify the contravention of the minimum floor level standard on the following basis:

- 10 (a) That compliance with the standard is unreasonable and unnecessary in the circumstances of the case because the building is intended to be part of a livestock processing facility and has operational, work, health and safety requirements that influence the height and form of the development. New equipment is required to be installed in the building which requires a ceiling void to ensure safe access and effective maintenance of the equipment. In addition, the new extension is not anticipated to be highly visible from outside the existing development.
- 15 (b) That there are sufficient environmental planning grounds to justify contravening the standard as the proposed building will achieve positive outcomes in terms of safety and efficiency for workers and the enhancement of animal welfare. A larger internal space is required to accommodate modern new equipment.

20 **Consideration of Applicant's Written Request Clause 4.6(3)**

Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- 25 (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Does the written request adequately address those issues at Clause 4.6(3)(a)?**

5 The applicant's written request has adequately addressed Clause 4.6(3)(a) of LEP 2014 as it demonstrates that the objectives of the development standard are achieved notwithstanding non-compliance with the numeric value. The proposed building only marginally exceeds the 9m height limit by 0.9m and will not be clearly visible from surrounding locations. The height and scale of the building is appropriate in the context of an established livestock processing facility and will not result in a significant visual impact, disruption of views or loss of solar access in relation to surrounding development.

**Does the written request adequately address those issues at clause 4.6(3)(b)?**

10 The applicant's written request has adequately addressed Clause 4.6(3)(b) of LEP 2014 as it demonstrates that there are sufficient environmental planning grounds to justify a minor contravention to the 9m height standard. The new building requires sufficient internal height to accommodate modern new equipment which provides improved safety for workers and may enhance animal welfare. Enforcing strict compliance with the height  
15 standard would not result in a superior planning outcome given the circumstances.

**Conclusion**

20 For the reasons provided above the requested variation to the maximum height of buildings standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Byron LEP 2014 and the proposed development would be in the public interest because it is generally  
25 consistent with the objectives of standard and the zoning of the site.

**4.4 Byron Local Environmental Plan 1988 (LEP 1988)**

25 The subject development in relation to road upgrading of Cudgerie Gully Lane is partly zoned 1(a) General Rural Zone. The following is noted.

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

- 30 (a) The proposed development is defined in the LEP 1988 Dictionary as *road*;  
 (b) The land is within the LEP1988 1(a) (General Rural Zone) according to the map under LEP 1988;  
 (c) The proposed development is permitted with consent; and  
 (d) The proposed development is consistent with the relevant objectives of the Zone for the following reasons:

<b>Zone Objective 1(a) (General Rural Zone)</b>	<b>Consideration</b>
(a) to encourage and permit a range of uses creating a pattern of settlement, at a scale and character that maintains or enhances the natural, economic, cultural, social and scenic amenity of the rural environment of the Shire of Byron,	The proposed road upgrades are located on land within the 1(a)(General Rural Zone). The proposed works are generally compatible with the 1(a) zone objectives.

# BYRON SHIRE COUNCIL

Zone Objective 1(a) (General Rural Zone)	Consideration
<ul style="list-style-type: none"> <li>(b) to encourage and permit a pattern of settlement which does not adversely affect the quality of life of residents and visitors and maintains the rural character,</li> <li>(c) to ensure development only occurs on land which is suitable for and economically capable of that development and so as not to create conflicting uses,</li> <li>(d) to allow the use of land within the zone for agricultural purposes and for a range of other appropriate purposes whilst avoiding conflict between other uses and intensive agriculture,</li> <li>(e) to identify lands (shown hatched on the map) which in the opinion of the council possess a limited capability for more intensive uses or development,</li> <li>(f) to restrict the establishment of inappropriate traffic generating uses along main road frontages other than in road side service areas,</li> <li>(g) to ensure sound management of land which has an extractive or mining industry potential and to ensure that development does not adversely affect the potential of any existing or future extractive industry,</li> <li>(h) to enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the form and density of the nature of the locality, and</li> <li>(i) to permit the development of limited light industries which do not pose any adverse environmental impact, (e.g., software manufacture and film processing), and</li> <li>(j) to ensure that the development and use of land shown cross-hatched on the map adjacent to areas of significant vegetation and wildlife habitat do not result in any degradation of that significant vegetation and wildlife habitat, and that any</li> </ul>	

# BYRON SHIRE COUNCIL

Zone Objective 1(a) (General Rural Zone)	Consideration
development conserves and protects and enhances the value of the fauna and flora.	

## Part 3 Special provisions

Provision	Compliance	Comment
Clause 24 Development of flood liable land	Yes	<p>Part of Cudgerie Gully Lane is within the 1(a)(General Rural Zone) under BLEP 1988.</p> <p>The proposed road upgrades are compatible with the flood hazard of the land and are satisfactory having regard to the matters for consideration under Clause 24.</p> <p>Conditions are recommended for the road to be designed in accordance with the relevant engineering standard for culverts and floodway crossings.</p>

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

- 5 There are no proposed instruments with relevance to the subject application.

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

### Chapter B3 Services

Provision	Compliance	Comment
B3.2.1 Provision of Services	Yes	The processing facility is currently serviced by water, sewage, electricity, and telecommunications. The existing service arrangements are adequate for the proposed extensions. Vehicular access off Cudgerie Gully Lane is acceptable.
B3.2.3 Stormwater	Yes	Adequate room is available for stormwater to

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

Provision	Compliance	Comment
Management		be handled and treated through on-site infiltration.
B3.2.4 Sedimentation and Erosion Control Measures	Yes	A condition is recommended for suitable erosion and sediment controls to be implemented prior to the commencement of works.

### Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access

Provision	Compliance	Comment
B4.2.1 Traffic Impact		<p>The proposed alterations and additions will not significantly alter the volume of traffic generated by the facility and is considered to be acceptable in terms of traffic impacts.</p> <p>The proposed removal of livestock processing limits is not supported as is it likely to increase traffic generation and associated amenity impacts for nearby dwellings.</p>
B4.2.5 Car Parking Requirements	Yes, subject to conditions	<p>Council's Development Engineer commented that the proposed development generated demand for an additional 6 car parking spaces due to the increase in gross floor area.</p> <p>Conditions are recommended for additional parking to be provided in accordance with B4.2.5.</p>
B4.2.3 Vehicle Access and Manoeuvring Areas	Yes	The proposed vehicle access and manoeuvring areas comply with the relevant engineering and design standards.

### Chapter B6 Buffers and Minimising Land Use Conflict

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

Provision	Compliance	Comment
B6.2.2 Conflict Risk Assessment	Yes, subject to conditions	<p>The submitted Land Use Conflict Risk Assessment (LUCRA) demonstrates that the proposed alterations and additions do not pose a significant risk of increased land use conflict with surrounding rural and residential properties in the locality.</p> <p>The creation of a new loading bay on the eastern side of the facility is likely to reduce the noise associated with the unloading of livestock which will hopefully address concerns by local residents who noted frequent noise disturbances in submissions.</p>
B6.2.4 Buffers	No, but acceptable subject to conditions	<p>Table B6.1 recommends a minimum 1km buffer between abattoirs and rural dwellings.</p> <p>Due to the historic nature of the Booyong facility, there are several rural dwellings located within the prescribed buffer. Strict compliance with the control is therefore not possible in the circumstances.</p> <p>Conditions are recommended to mitigate potential impacts arising from noise and odour where possible.</p> <p>As noted elsewhere in this report, the proposed alterations and additions will not exacerbate existing land use conflict issues.</p>

# BYRON SHIRE COUNCIL

## Chapter B13 Access and Mobility

Provision	Compliance	Comment
B13.2.4 Commercial Premises and Industrial Premises – BCA Classes 5, 6, 7 & 8.	Yes, subject to conditions	<p>The submitted NCC assessment report notes that the current building does not comply with disabled access requirements of the NCC.</p> <p>Conditions are recommended for the building to be brought into compliance with the relevant NCC access requirements prior to the issue of an occupation certificate.</p>

## Chapter B14 Excavation and Fill

Provision	Compliance	Comment
B14.2 Excavation and Fill in all Zones	Meets performance criteria	<p>Up to 2.8m of fill is proposed to create an internal access ramp for trucks to access the unloading facility. The ramp exceeds the 1m maximum fill height prescribed under Part B14.2 by 1.8m.</p> <p>The visual impact of the proposed earthworks will be quite minor, as the ramp is located on the eastern side of the main processing building where it is obscured from surrounding views of the site.</p> <p>The scale and character of the ramp is considered to be acceptable in the context of an existing animal processing facility that contains several large industrial buildings. The design is satisfactory having regard to the relevant Objectives and Performance Criteria of Part B14.2.</p>

**Chapter C4 Development in the Drinking Water Catchment**

Provision	Compliance	Comment
C4.2.1 On-Site Sewage Management and Potentially High Impact Land Uses	Yes	<p>The proposed alterations and additions will not increase adversely affect the quantity or quality of water entering the drinking water catchment.</p> <p>Existing effluent streams are managed by the EPA under an environmental protection licence.</p>

**4.7 Byron Shire Development Control Plan 2010 (DCP 2010)**

Subject to conditions of consent the proposed road works that DCP 2010 apply to raises no specific issues in terms of the relevant provisions of the DCP.

**5 4.8 Environmental Planning and Assessment Regulation 2021 considerations**

Section 61 Additional matters that consent authority must consider

A condition is recommended that requires any demolition works to be carried out in accordance with AS2601–The demolition of structures.

**10 Section 62 Consideration of fire safety**

Not applicable given there is no change in building use.

Section 64 Consent authority may require upgrade of buildings

**15** A National Construction Code (NCC) Assessment Report was submitted which found that upgrades are required to bring the existing building into conformity with the NCC in relation to fire safety, access, and certain other matters. Conditions are recommended requiring such upgrades to be detailed on the building plans and submitted for approval as part of the construction certificate application.

Schedule 3 Designated development

**20** Livestock processing industries which process more than 750 tonnes per year of live weight or involve the manufacture of products derived from the slaughter of animals are declared to be designated development under Schedule 3 of the Regulation. Designated developments typically have a high pollution potential and require a more stringent environmental impact assessment.

Part 3 Exceptions

Schedule 3, Part 3, of the Regulation states that alterations and additions are not considered to be designated development in their own right if, in the consent authority's opinion, the alterations or additions do not significantly increase the environmental impacts of the existing or approved development.

**Part 3 Exceptions**

**48 Alterations or additions to existing or approved development**

- (1) *Development involving alterations or additions to development, whether existing or approved, is not designated development if, in the consent authority's opinion, the alterations or additions do not significantly increase the environmental impacts of the existing or approved development.*
- (2) *In forming its opinion, a consent authority must consider the following—*
- - (a) *the impact of the existing development, including the following—*
    - (i) *previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice,*
    - (ii) *rehabilitation or restoration of any disturbed land,*
    - (iii) *the number and nature of all past changes and their cumulative effects,*
  - (b) *the likely impact of the proposed alterations or additions, including the following—*
    - (i) *the scale, character, or nature of the proposal in relation to the development,*
    - (ii) *the existing vegetation, air, noise and water quality, scenic character, and special features of the land on which the development is, or will be, carried out and the surrounding locality,*
    - (iii) *the degree to which the potential environmental impacts can be predicted with adequate certainty,*
    - (iv) *the capacity of the receiving environment to accommodate changes in environmental impacts.*
  - (c) *proposals to mitigate the environmental impacts and manage residual risk,*
  - (d) *proposals to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.*

Assessment

The proposed development will likely improve the environmental performance of the processing facility and will not increase production volume or the intensity of polluting discharge during normal operation. In accordance with Schedule 3 of the Regulation, the

proposed alterations and additions are not classified as designated development in their own right, and an environmental impact statement is not required for the development application.

5

#### 4.9 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	<p>The proposed alterations and additions will not increase the environmental impact of the existing facility. Vegetation to be removed comprises planted species that do not have high ecological significance and will be replaced by new plantings near Cudgerie Gully Creek to offset any potential biodiversity loss.</p>												
Built environment	<p><u>Noise</u></p> <p>The Noise Impact Assessment Report submitted with the DA included noise modelling of the proposed development and assessed its potential impacts on nearby residential areas.</p> <p>The modelling indicated that the primary changes in noise emissions would stem from livestock unloading and mechanical plant operations linked to the new additions. Noise from livestock is expected to remain within acceptable limits for surrounding properties, largely due to the use of an enclosed loading bay that provides acoustic shielding. While the report did not assess noise from mechanical plant (such as refrigeration), it was noted that noise from such equipment can be effectively reduced with enclosures, silencers, and other attenuation measures.</p> <p>To address ongoing concerns from local residents about the noise impacts of the facility's existing operations, it is recommended that noise levels be capped at the maximum thresholds identified in the noise report. These thresholds will apply to each residential receiver as detailed below.</p> <p><b>Table 3: Recommended maximum noise thresholds.</b></p> <table border="1" data-bbox="539 1659 1369 1890"> <thead> <tr> <th data-bbox="545 1666 759 1731">Receiver location</th> <th data-bbox="764 1666 948 1731">7am -6pm 7days</th> <th data-bbox="952 1666 1136 1731">6pm-10pm M-F</th> <th data-bbox="1141 1666 1362 1731">All other times</th> </tr> </thead> <tbody> <tr> <td data-bbox="545 1738 759 1803">Receiver R1</td> <td data-bbox="764 1738 948 1803">47dB(A)</td> <td data-bbox="952 1738 1136 1803">47dB(A)</td> <td data-bbox="1141 1738 1362 1803">43dB(A)</td> </tr> <tr> <td data-bbox="545 1809 759 1874">R2-R6</td> <td data-bbox="764 1809 948 1874">44 dB(a)</td> <td data-bbox="952 1809 1136 1874">44 dB(a)</td> <td data-bbox="1141 1809 1362 1874">42 dB(A)</td> </tr> </tbody> </table> <p>These thresholds have also been endorsed by the EPA and will serve as a clear reference for evaluating any future noise complaints, should they arise.</p>	Receiver location	7am -6pm 7days	6pm-10pm M-F	All other times	Receiver R1	47dB(A)	47dB(A)	43dB(A)	R2-R6	44 dB(a)	44 dB(a)	42 dB(A)
Receiver location	7am -6pm 7days	6pm-10pm M-F	All other times										
Receiver R1	47dB(A)	47dB(A)	43dB(A)										
R2-R6	44 dB(a)	44 dB(a)	42 dB(A)										

<b>Impact on:</b>	<b>Likely significant impact/s?</b>
	<p>Council's Environmental Health Officer has also recommended that a post-completion noise report be prepared identifying all noise sources along with recommendations for mitigation measures to be introduced to achieve noise targets where non-compliance are identified.</p> <p>In relation to traffic noise (which was not considered in the noise report), conditions are recommended that limit heavy vehicle deliveries to daytime hours, generally between 6am to 6pm on weekdays and 7am to 1pm on weekends. Light vehicles may access the site without restriction in acknowledgment that the facility is a 24/7 operation.</p> <p><u>Odour</u></p> <p>The facility generates odour primarily from animal waste products which are stored on-site and from two outdoor effluent holding ponds. Conditions are recommended for all putrescible waste to be kept covered and removed from the facility twice weekly and for livestock trucks to be washed prior to leaving the facility.</p>
<b>Social Environment</b>	The proposal will not have a significant social impact on the locality.
<b>Economic impact</b>	The Booyong processing facility is a significant local employer and contributes positively to the local and regional economy. The proposed alterations and additions will help the facility maintain its efficiency and economic viability into the future.
<b>Construction Impacts</b>	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.

#### **4.10 The suitability of the site for the development**

5 The proposed development is located within the footprint of the existing facility and is relatively unaffected by the environmental constraints affecting other areas of the site. Potential land use conflicts exist with respect to the existing facility and dwellings located in the surrounding environment. The proposed works, however, will not cause, substantially alter, nor increase land use conflict.

#### **4.11 Submissions made in accordance with this Act or the regulations**

10 The development application was publicly exhibited for 14-days in accordance with the Community Participation Plan. There were fourteen (14) submissions from six (6) unique submission authors. Several submissions were addressed to the NSW EPA but were also

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

forwarded to Council for consideration. Overall, there were five key themes in the submissions, being: (1) noise, (2) odour, (3) traffic safety, (4) environmental impacts.

Issue	Comment
<p><b>Noise</b></p> <p>The main concern in all submissions is noise. Nearby residents in the Booyong village complained of noise disturbances occurring at all hours, sometimes in the very early morning or late at night.</p> <p>The following noise sources were identified by residents:</p> <ul style="list-style-type: none"> <li>• Trucks unloading and banging metal loading ramps.</li> <li>• Plant noise such as refrigeration units running at all hours.</li> <li>• Reversing sirens from delivery trucks.</li> <li>• Pigs squealing in the facility.</li> <li>• Traffic noise from animal transport trucks and refrigerated vehicles accessing the facility at all hours.</li> </ul>	<p>Resident's concerns regarding noise impacts associated with the existing facility are acknowledged.</p> <p>It is important to note however that the proposed alterations and additions will not exacerbate existing noise issues.</p> <p>It is anticipated that the new loading bay and animal enclosure will reduce the noise arising from the unloading of animals compared to the existing situation.</p> <p>In relation to plant noise, conditions are recommended for an acoustic report to be prepared identifying potential plant noise sources, with recommendations to alleviate noisy plant to within acceptable sound thresholds.</p> <p>A condition is recommended for heavy vehicle deliveries to be limited to day time hours to reduce disturbances.</p>
<p><b>Odour</b></p> <p>Submitters noted that odours emanating from the processing facility required windows to be closed. Complaints were also raised in relation to animal transport vehicles discharging effluent onto Pearces Creek Road.</p>	<p>Conditions are recommended to ensure putrescible waste is sealed and removed from the facility twice weekly to reduce the potential for offensive odour.</p> <p>In relation to effluent being discharged onto Pearces Creek road by animal transport vehicles, Council unfortunately has no jurisdiction to regulate such acts as part of the development application process. Illegal waste dumping is handled by the NSW EPA.</p>
<p><b>Traffic Safety</b></p> <p>The increased frequency of large transport vehicles is a concern for pedestrians and families, especially during school hours and times of heavy traffic.</p>	<p>Council cannot control the types of vehicles that are used in the agricultural supply chain. It is acknowledged however that the increased use of heavy transport vehicles may worsen noise impacts and add to the deterioration of public roads.</p>
<p><b>Environmental Impacts</b></p>	<p>Regarding potential water pollution, the</p>

Issue	Comment
Some residents are concerned about the long-term environmental impact of the processing facility, including potential contamination of local waterways and the degradation of local habitats.	main risk arising from the facility is effluent disposal ponds which are managed under an environmental protection licence issued by the EPA.  Council's consideration of environmental impacts for this application is limited to any additional effects arising from the proposed alterations and additions.
Increased pig deliveries  Submissions were received alleging that the facility does not adhere to the current processing limit of 5,000 pigs per week.	Council is not supportive of the proposal to remove processing limits. Any exceedance of processing limitations is a compliance matter to be pursued outside the development application process.
Misleading information in DA  Submissions were received claiming that documentation submitted with the DA was misleading and underestimated the existing and potential future impact of the processing facility.	The development application is considered to be relatively comprehensive in nature and provides information addressing key issues in relation to environmental impacts.

**4.12 Public interest**

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

**5. DEVELOPER CONTRIBUTIONS**

**5 5.1 Water & Sewer Levies**

The site is not connected to reticulated water or sewage networks. No Development servicing levies will be required.

**5.2 Developer Contributions**

10 The proposed development is non-residential and has an estimated development cost greater than \$100,000. The Section 7.12 Levy will be payable.

## 6. 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"/>

## 7. CONCLUSION

5 This application seeks consent for alterations and additions to the Casino Food Co-op livestock processing facility located at 10 Cudgerie Gully Lane, Booyong. The proposed alterations and additions are unlikely to intensify or alter the impact of the abattoir's current operations in their own right. The proposed truck enclosure will reduce the noise of animals being unloaded, and the new equipment will improve the safety and operational efficiency of the facility while also enhancing animal welfare, waste generation, and water usage.

10 To address the concerns of local residents in relation to noise impacts, it is recommended that a post-completion acoustic assessment be carried out which measures and identifies the noise generated by the facility and makes recommendations for mitigation measures to achieve the objective of the NSW Noise Policy for Industry. Such measures may include acoustic shielding of equipment or changes to operating procedures and are to be implemented within 90-days of the report being approved by Council. It is also recommended that conditions are imposed which limit, amongst other things, deliveries using heavy transport vehicles to daytime hours only.

20 The applicant's request to modify certain consent conditions via s4.17(1)(b) of the Act is accepted as a reasonable outcome. However, the request to remove the current processing limit of 5,000 pigs per day is not supported as it will likely increase the volume of road traffic while also intensifying the potential environmental impacts of the abattoir and its associated effects on residents in the surrounding area. Insufficient information has been provided to demonstrate such impacts are manageable in the circumstances.

25 The proposed development has been assessed against the relevant State Environmental Planning Policies, Byron LEP 2014, and Byron DCP 2014 and is considered to be generally compliant.

The development application is recommended for approval subject to the conditions of consent in **Attachment 1**.

30



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.4

<b>Date received:</b>	2 December 2024
<b>Original DA determination date:</b>	21 November 2024
<b>Integrated Development:</b>	No
<b>Public notification or exhibition:</b>	<ul style="list-style-type: none"><li>- Level 2 advertising under the Byron Shire Council Community Participation Plan.</li><li>- Exhibition period: 10 January - 24 January 2025</li><li>- Submissions received: 1</li></ul>
<b>Delegation to determination:</b>	Council
<b>Issues:</b>	<ul style="list-style-type: none"><li>• No vehicle parking</li></ul>

### Summary:

5 DA10.2024.239.1 considered and approved use of the site for an indoor recreation facility and food and drink premise. Condition 1A, as resolved by Council, establishes conditional and restricted operating parameters which facilitate early operation of the use prior to completion of the vehicle parking area. Notably, Condition 1A(3) which is requested to be removed, restricts, inter-alia, patronage to 20 persons at any time. The condition was not recommended by staff, as the prudent planning practice is for the development to be completed with relevant occupation certificates issued prior to operations commencing. This ensures all necessary works associated with a development or building use are in place.

10 This application now seeks consent to modify the consent by deleting Condition 1A (3) which was generously proposed and resolved on by Councillors to facilitate a limited scale soft opening of the use while vehicle parking spaces are being constructed in the public realm. In this regards the consent conditions required upgrades to Fingal Street to formalise 29 vehicle parking spaces and requires the relevant Roads Act application to be submitted within 6-months of determination (determination date 14 November, 6 months being 14 May). The application for these car parking works within Fingal Street had not been submitted at the date of writing this report. Consent conditions also require No Stopping signage on Slessor Lane which also needs to form part of the above Roads Act application, and other measures associated with noise attenuation and management of the gym.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.4

5 The S.4.55 modification was publicly notified, and 1 submission was received objecting to the proposal. The submission highlighted that surrounding residents have experienced adverse noise, parking and traffic impacts since approval of this consent, despite the limited operation. There have been other complaints made to Council outside the s4.55 process about the traffic and parking situation in and around the development since its opening.

Having regards to the circumstances of the case, removal of the condition as proposed is not supported for the following reasons:

- Is inconsistent with Chapter B4 of Byron DCP 2014
- 10 • The site is not suitable for development as proposed until such time as the car parking is constructed, with the lack of parking having an adverse impact on the built environment and amenity of the neighbourhood.
- full-scale operation is not in the public interest until vehicle parking is completed.
- Sets an undesirable precedent; and
- 15 • The lack of compliant parking provided for the development does not provide a good planning outcome in terms of the Objects of the EPA Act 1979 and in particular the orderly and economic development of land and promoting good design and amenity of the built environment.

20 It should be noted that conditions of consent are imposed to control and regulate the operation of an approved development. Conditions are designed to inter alia: eliminate or mitigate environmental and amenity impacts, ensure that developments comply with legal and statutory requirements.

25 Most importantly, conditions provide certainty to both the consent holder and the community about their obligations that must be carried out from the time the development consent is granted and to when the development is used.

As such the Section 4.55 modification is recommended for refusal.

### NOTE TO COUNCILLORS:

30 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.

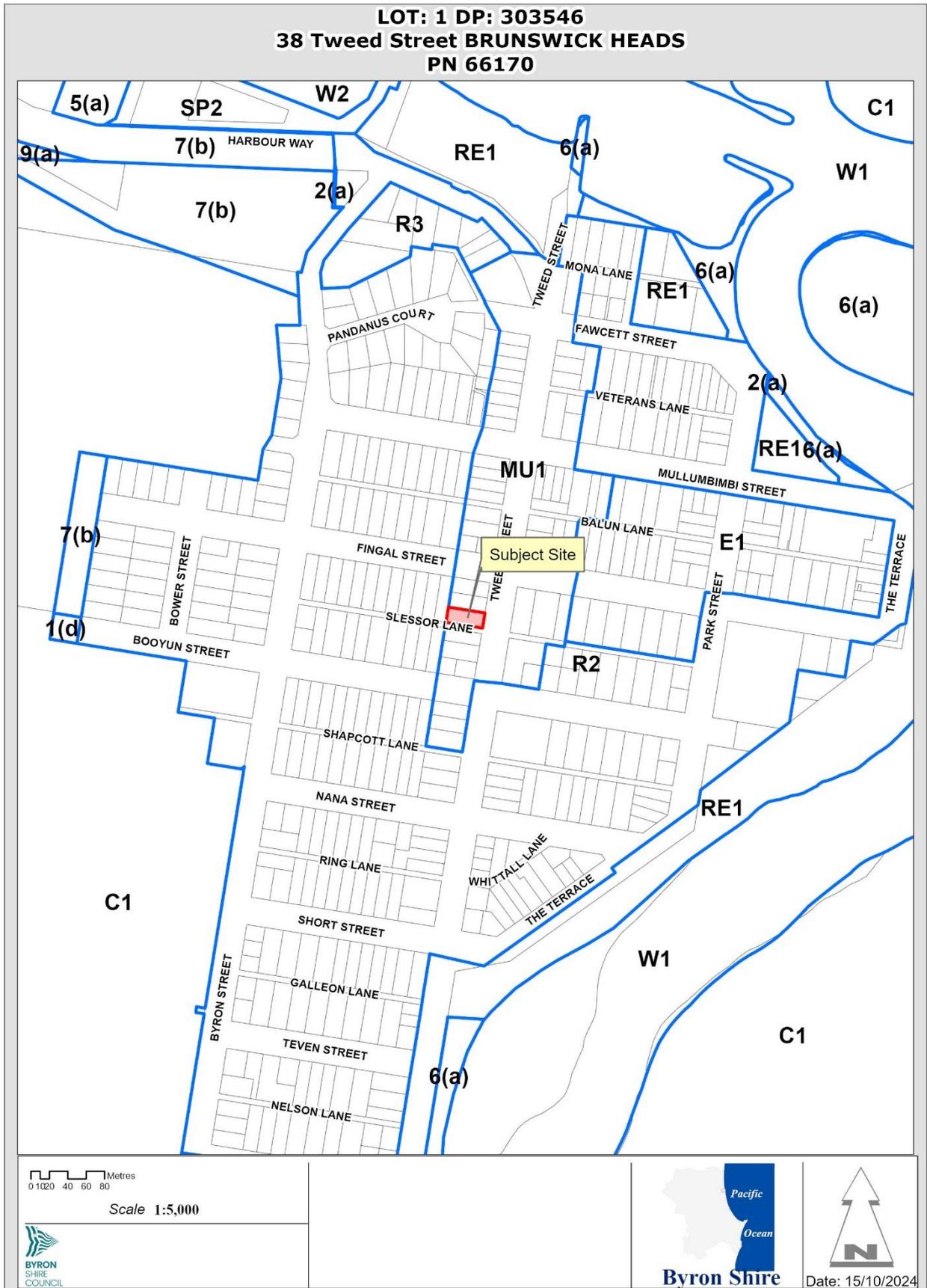
35

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**RECOMMENDATION:**

- 5    **That pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Application No. 10.2024.239.2 for Modification to delete Condition 1A (3), be refused for the following reasons:**
1.    **Pursuant to Section 1.3 of the EPA Act 1979 the proposed amendments are inconsistent with the Objects of the Act and in particular:**
    - 10    a.    **Object (c) to promote the orderly and economic use and development of the land; and**
    - b.    **Object (g) to promote good design and amenity of the built environment;**
  - 15    2.    **Pursuant to Section 4.15(1)(a)(iii) the proposed amendments are inconsistent with Chapter B4 Traffic Planning, Vehicle Parking Circulation and Access of Byron DCP 2014;**
  3.    **Pursuant to Section 4.15(1)(b) of the EPA Act 1979 the proposed amendments with no additional parking provided for the development will have an adverse impact on the amenity of the built environment;**
  - 20    4.    **Pursuant to Section 4.15(1)(c) of the EPA Act 1979 the site is not suitable to be developed in the manner proposed by the amendment with no additional parking provided; and**
  5.    **Pursuant to Section 4.15(1)(e) of the EPA act 1979 the proposed development as amended is not in the public interest and sets an undesirable precedent.**
- 25    **Attachments:**
- 1        10.2024.239.2 redacted submission, E2025/14201 

BYRON SHIRE COUNCIL



## Assessment:

### 1. INTRODUCTION

#### 1.1. History/Background

- 5 DA10.2024.239.1 considered and approved use of the site for an indoor recreation and food and drink premise. That application made use of DCP controls which allow the provision of vehicle parking within the public realm (at the cost of the developer) when they're unable to be provided on the development site.
- 10 During Council debate and determination of the application at the Ordinary Planning Meeting of the 14 November 2024, Councillors resolved (see Resolution 24-513 - [Minutes of Ordinary \(Planning\) Meeting - Thursday, 14 November 2024](#)) to permit a 'soft opening' to enable operations to commence with a limited capacity of 20 patrons for the gymnasium prior to construction of 29 vehicle parking spaces in Fingal Street amongst other works required in Tweed Street, and Slessor Lane.
- 15 The application was approved by Council on 14 November 2024.

#### 1.2. Description of the proposed development

- 20 This application seeks approval for a Modification to delete Condition 1A (3) which limits the number of patrons in the recreational facility (the Gymnasium) to a maximum 20 people) during a restricted opening period of 12 months from date of consent.

Condition 1A in total currently reads as follows:

##### 1A. Conditional and restricted opening, pending road works and parking completion

This condition applies for a period of 12 months from the date of this consent and the relevant parts of this condition prevails over any other relevant condition in this consent for the limited operating period.

The Recreation Facility (indoor) and Café may operate on a conditional and restricted basis for a period of no greater than 12 months following the date of approval while road works including vehicle parking in Fingal Street is completed. Following this 12 month period, use of the site must cease until the road works required under this consent are completed to the satisfaction of Council.

In this regard, the following conditions apply:

1. **Hours of operation café:** 7:00am to 5:00pm - 7 days a week – takeaway service as kiosk only.
2. **Hours of operation recreation facility:** In accordance with Plan of Management (E2024/115189)

3. **Recreation facility:** limited to 20 patrons on the premises at any one time.
4. **Acoustic certification report:** An acoustic compliance report prepared by a suitably qualified person shall be submitted to Council for approval ([development related advice](#)) (fees apply).
5. The report shall certify that the development has been designed and constructed in accordance with the established noise criteria and recommendations outlined in the Final Environmental Noise Impact Assessment Report submitted to council.
6. **No Stopping Slessor Lane:** A minimum of two (2) 'No Stopping' signs must be placed on the building within Slessor Lane.
7. **Slessor Lane Sliding door:** Must be acoustically treated and feature acoustic perimeter seals. This door cannot be used for staff or patron access and must be closed while the gym is operating.
8. **Noise mitigation:** A silencer / baffle acoustic treatment is to be installed between the bath / pool heating & cooling plant and the outlet vent on the southern wall prior to operation.
9. **Access to gym:** Must only be through the front Tweed Street entry.
10. **Use of rooms:** The room labelled 'recreational facility' in the NE corner of the building must not be used for any activities other than meditation and yoga without prior approval from council.
11. **Contact information for complaints:** Nearby resident must be provided with the contact details of staff that will be on site if a noise complaint is to be made, and a sign erected in a highly visible location informing residents where the contact details can be found.

At the time of writing, no details have been submitted that the above conditions 4 – 11 have been met.

### 1.3. Description of the site

5 The development site known as 38 Tweed Street, Brunswick Heads and is legally described as Lot 1 on DP303546. The property has an area of 670.3m<sup>2</sup> and is within the MU1 Mixed Use zone of the Byron LEP 2014. The allotment is currently improved by an existing single storey building which has historically been used as a vehicle repair & body workshop.

The allotment has dual frontage to Tweed Street to the east and Slessor Lane to the south and is surrounded in each direction by residential allotments comprised of dwelling houses, secondary dwellings and (some) dual occupancy developments.

**2. SECTION 4.15 – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES**

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

Is the person who made the application entitled to act on the Consent?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the development, as modified substantially the same as the development for which the consent was originally granted.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**2.1. State/Regional Planning Policies, Instruments, EPA Regulations 2021**

10 Proposed amendments raise no issues under the relevant SEPPS, Policies or clauses of the EPA Regulations 2021

**2.2. Byron Local Environmental Plan 2014**

Proposed amendments raise no issues under the LEP

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

No draft EPIs affect the proposal.

**2.4. Development Control Plans**

20

**Chapter B4. Traffic Planning, Vehicle Parking Circulation and Access**

The proposed amendments are inconsistent with Chapter B4 as no parking will be provided whilst the Gymnasium will be operating at full capacity. The application is recommended for refusal.

25

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

30 Vehicle parking is required to be provided to accompany a use as required by the Byron DCP 2014. It is normal and prudent planning practice that conditions of consent are complied with prior to operations commencing. In this instance the carparking would normally be provided.

5 The limited operation condition was recommended by and resolved by Councillors to facilitate early commencement of the use which otherwise would be required to wait until completion of vehicle parking in the road reserve. The condition acknowledges the initial capital outlay of the landowner and provides an avenue to commence limited operation before completing vehicle parking in the road reserve, despite not providing the required car parking.

10 However, the current application to delete the soft opening condition of 20 patrons to enable the gymnasium to operate at full capacity without the parking provided will have an adverse impact on the built environment and the amenity of the locality as the car parking has not been constructed.

Further, the applicant has not in shown in good faith their commitment to meet the consent requirements, given the peculiarity of the soft opening arrangements granted by Council in the first place.

15 It is considered the proposed amendment will have an adverse impact on the built environment and the amenity of the area. The application is recommended for refusal.

## 2.6. The suitability of the site for the development

20 The proposed modification seeks to undertake the development at full-scale operation prior to the provision of vehicle parking. Operation of the gymnasium at full capacity is not suitable without the provision of vehicle parking as discussed above.

Without the provision of vehicle parking, the site is not considered suitable for the development to operate at full capacity, and the application is recommended for refusal.

## 2.7. Submissions made in accordance with this Act or the regulations

25 One public submission opposing the proposed modification was submitted.

The submission detailed that since approval of this application, surrounding residents have experienced adverse noise, parking and traffic impacts, resulting in complaints to Council, despite the restricted operation parameters. Impacts mentioned include:

- cars parked illegally in Slessor Lane,
- 30 • deliveries blocking Slessor Lane,
- cars blocking footpath,
- increased traffic causing issues with drivers moving in both directions with no way of passing,
- pedestrian safety concerns due to increased traffic, and
- 35 • limited parking availability in the vicinity for residents due to increased traffic.

**2.8 Public interest**

It is considered the proposed amendments are not in the public interest and any further changes to the conditions as proposed create an undesirable precedent.

- 5 Having regards to the matters discussed above it is noted the amendments are also inconsistent with Section 1.3 Objects of the EPA Act 1979, with car parking not provided as required by the development consent. In particular, the proposal does not promote the orderly and economic development of the land, nor does it promote good design and the amenity of the built environment. The application is recommended for refusal.

**2.9 DEVELOPER CONTRIBUTIONS/ WATER AND SEWER CHARGES**

- 10 There is no nexus to levy additional contributions.

**3. CONCLUSION**

A section 4.55 Application has been received to delete Condition 1A (3) which inter alia limits gym patrons to 20 people.

- 15 It should be noted that conditions of consent are imposed to control and regulate the operation of an approved development. Conditions are designed to, inter alia: eliminate or mitigate environmental and amenity impacts, ensure that developments comply with legal and statutory requirements.

- 20 Most importantly, conditions provide certainty to both the consent holder and the community about their obligations that must be carried out from the time the development consent is granted and to when the development is used.

As such the application is recommended for refusal.

**Report No. 13.5 PLANNING - Report of the Planning Review Committee held 6 February 2025**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Chris Larkin, Manager Sustainable Development  
Noreen Scott, EA Sustainable Environment and Economy

**File No:** I2025/112

**Summary:**

This report provides the outcome of the Planning Review Committee (PRC) held on 6 February 2025.

10 **NOTE TO COUNCILLORS:**

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

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**RECOMMENDATION:**

20 **That Council endorses the outcomes of the Planning Review Committee meeting held on 6 February 2025.**

# BYRON SHIRE COUNCIL

## Report

The PRC meeting was held on 6 February 2025. The meeting commenced at 4:15pm and concluded at 4:35pm.

5 **Councillors:** Cr J Dods, Cr S Ndiaye, Cr D Kay, Cr M Lowe, Cr J Swain, Cr D Warth, Cr E Hauge.

**Apologies:** Cr M Lyon, Cr A Pugh.

**Staff:** Chris Larkin (Manager Sustainable Development).

**Conflict of Interest:** Cr S Ndiaye, Cr D Kay Cr E Hauge (10.2014.753.10 Bluesfest)

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
10.2024.474.1 Matt Walker Town Planning	7 Leslie Street <b>BANGALOW</b>  The development application proposes demolition/ relocation of the existing dwelling and construction of two x two storey dwelling houses with swimming pools.	Level 2 10/010/25 to 23/01/25  31 submissions against	The number of public submissions.  The validity of the matters raised in the public submissions.  The extent of variation to Council policies proposed.  The perceived public significance of the application.  Council

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5

The S 4.55 applications to modify these development consents are referred to the Planning Review Committee to decide if the modification applications can be determined under delegated authority.

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
10.2024.438.1 Balanced Systems Planning Consultants	84 Blindmouth Road <b>MAIN ARM</b>  The development application proposes Community Title Subdivision comprising twelve Neighbourhood Lots and one Community Lot and modification to remove condition 4 of consent of the consent to Development Application 10.2020.242.1. This previous development consent was for a Rural Land Sharing Community (Multiple Occupancy) consisting of twelve dwelling sites, associated infrastructure, land management and environmental enhancement.	Level 2 10/01/25 to 3/02/25  21 submissions received  14 oppose 7 support	No delegation over 10 Lots   Council

5 Council determined the following original development applications. The S4.55 application/s to modify these development consents are referred to the Planning Review Committee to decide if the modification applications can be determined under delegated authority

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
10.2021.425.6 Mr P Wolfe	24 Bayside Way <b>BRUNSWICK HEADS</b>  Section 4.55 for minor design modifications to Stage 2 Dwellings	Level 0	Staff Delegation
10.2014.453.10 Newton Denny Chapelle	35 Yarun Road <b>TYAGARAH</b>  Modification to administrative conditions of consent to:  Conditions 3 and 51 for up to 100 small, amplified music events per year per Council Resolution <b>24-221</b> .  Condition 19 to be modified	Level 2 22/01/25 to 5/02/25  1 submission	Staff Delegation

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
	<p>regards bitumen sealing of the 'Kiss and Ride' area to remain unsealed.</p> <p>Condition 87 of the consent, be updated to allow for the required security ratio to be agreed with the Commander of Tweed/Byron Police District prior to each festival.</p>		
<p>10.2024.63.2 Town Planning Studio P/L</p>	<p>19 Marine Parade <b>BYRON BAY</b></p> <p>Section 4.55 application proposes modification to the size of the basement and lift and stair access of the approved development, which was demolition of the existing dwelling house, and a new dwelling house including basement carparking, swimming pool and tree removal.</p>	<p>Level 2 17/01/25 to 1/01/25</p> <p>No submissions received.</p>	<p>Staff Delegation</p>

**Report No. 13.6      Review of Local Approvals Policy 2025**

**Directorate:**                      Sustainable Environment and Economy

**Report Author:**                Kylie Graine, Business Improvement Officer  
Stephen McCarthy, Building Services Coordinator

5    **File No:**                        I2025/118

**Summary:**

The purpose of this report is to seek Council’s endorsement to place the revised Local Approvals Policy 2025 (LAP) on public exhibition.

10    A LAP provides exemptions from the requirement to obtain approvals under Section 68 of the Local Government Act 1993 (the Act) for specific activities.

The Act prescribes that the LAP is automatically revoked within 12 months of a Council election.

The LAP has been reviewed and is provided as an attachment to this report.

15

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**RECOMMENDATION:**

**That Council:**

20    1.    **Gives notice of the review of the Draft Local Approvals Policy 2025 and that it be placed on public exhibition for a period 28 days in accordance with Section 160 of the Local Government Act 1993, allowing 42 days after the date on which the revised Policy is placed on public exhibition.**

2.    **Where:**

25        a)    **no submissions are received; the Draft Local Approvals Policy 2025 is forwarded to the Departmental Chief Executive for consent to adopt the policy.**

      b)    **submissions are received, the Draft Local Approvals Policy 2025 and submissions are reported to Council for endorsement, prior to forwarding to the Departmental Chief Executive for consent to adopt the policy.**

30    **Attachments:**

1        Draft Local Approvals Policy 2025, E2025/21179 

## Report

The current [Local Approvals Policy](#) (Lap) was adopted on 4 January 2023.

5 The LAP provides flexibility through local exemptions from the need for approval for minor or activities under [Section 68 of the Local Government Act 1993](#) for activities which are minor or low impact.

10 The LAP has been reviewed and minor changes only have been made to it, including legislative changes, updated definitions and terminology and updates that recognise Council policy introduced since the last review. These changes are highlighted in the draft document (Attachment 1). None of these changes are considered substantive and seek only to update the currency of the document in relation to the above matters.

This report seeks Council endorsement of the Draft Local Approvals Policy (the policy) so it can be placed on public exhibition. If submissions are received it is recommended, the submissions and the policy will be reported back to Council for endorsement.

15 After the exhibition and Council’s endorsement (where required), the draft policy must be submitted to the Office of Local Government for approval before taking effect. Since it includes exemptions from obtaining activity approval, Section 162 of the Local Government Act requires the Departmental Chief Executive’s consent before it is formally adopted by Council.

## Strategic Considerations

### 20 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

## Legal/Statutory/Policy Considerations

A Local Approval Policy will reduce the need for the community to obtain certain approvals and assist the community by providing information and guidance on where approvals are required.

### 25 Financial Considerations

There are no financial implications for Council arising from the review of the LAP.

**Consultation and Engagement**

The draft Local Approvals Policy will be placed on public exhibition for 28 days allowing 42 days for submissions to be received.

- 5 If no submissions are received, the draft policy will be forwarded to the Office of Local Government, Departmental Chief Executive's for consent to the adoption.

If submissions are received, the draft policy will be reported back to Council and then forwarded to the Office of Local Government, Departmental Chief Executive's for consent to the adoption.

10



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

– Submissions acknowledged:  Yes  No  N/A

**Variation request to Development Standards under an EPI (eg clause 4.6)**

**Clause 4.6**

Name of clause – Floor Space Ratio

Clause number – 4.4

Percentage value of variation sought – 68%

Percentage value of the variation approved – 68%

Brief justification for the variation – The existing FSR is a 76% variation from the standard. The proposal seeks to reduce part of the GFA of the first floor whilst retaining the mixed use of the building. There is no environmental impact as a result from the variation and it would be unnecessary and unreasonable for the proposal to comply with the standard.

**Estimated cost**

\$874,500.00

**Delegation to determine**

Council – 4.6 variation greater than 10%.

### Summary:

5 This Development Application (DA) proposes alterations and additions to shop top housing and commercial premises at 14 The Terrace in Brunswick Heads. The works involve internal changes to the ground floor plan, which is used as a café and shop; replacing the existing footpath awning; changes to the first-floor plan, which is used as a dwelling; and construction of a pop-up roof with highlight windows and solar panels.

10 The application proposes a variation to a development standard in accordance with clause 4.6 of Byron LEP 2014. The development standard to be varied is Clause 4.4 (Floor space ratio (FSR)) by proposing a FSR of 1.26:1 where the maximum FSR for the site is 0.75:1, which is a 68% variation. The variation being proposed is lower than the existing FSR of 1.32:1, a 76% variation, the change being a result of transferring floor area of the living space to the balcony, which is not included the GFA calculation. The existing commercial floor space will be maintained in the proposal as will the existing dwelling with no changes to the number of bedrooms (4). The proposal seeks to improve the functionality and amenity of the existing building.

15 The applicant has submitted a written request to vary the development standard, and it is considered that strict compliance with the development standard is unreasonable or unnecessary in this instance and that there are sufficient environmental grounds to vary the controls.

20 The application was advertised and notified between 30 October and 12 November 2024 in accordance with the Byron Shire Community Participation Plan and four (4) submissions received. Concerns were raised over issues of amenity, access and fire safety. These matters have been considered with the assessment of the applications and appropriate conditions of consent have been recommended where appropriate.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

In conclusion the proposal is considered acceptable, appropriately addresses the relevant constraints applying to the site, and is recommended for approval subject to the conditions in Attachment 2.

### NOTE TO COUNCILLORS:

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

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### RECOMMENDATION:

- 15 **That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2024.364.1 for Alterations and Additions to Shop Top Housing and Commercial Premises, be granted consent subject to the conditions in Attachment 2 (E2025/20272).**

### Attachments:

- 20 1 DA 10.2024.364.1 - Plans recommended for approval, E2025/19168   
2 DA 10.2024.364.1 - Recommended conditions of consent, E2025/20272   
3 DA 10.2024.364.1 - Submissions - Redacted, E2025/20304 

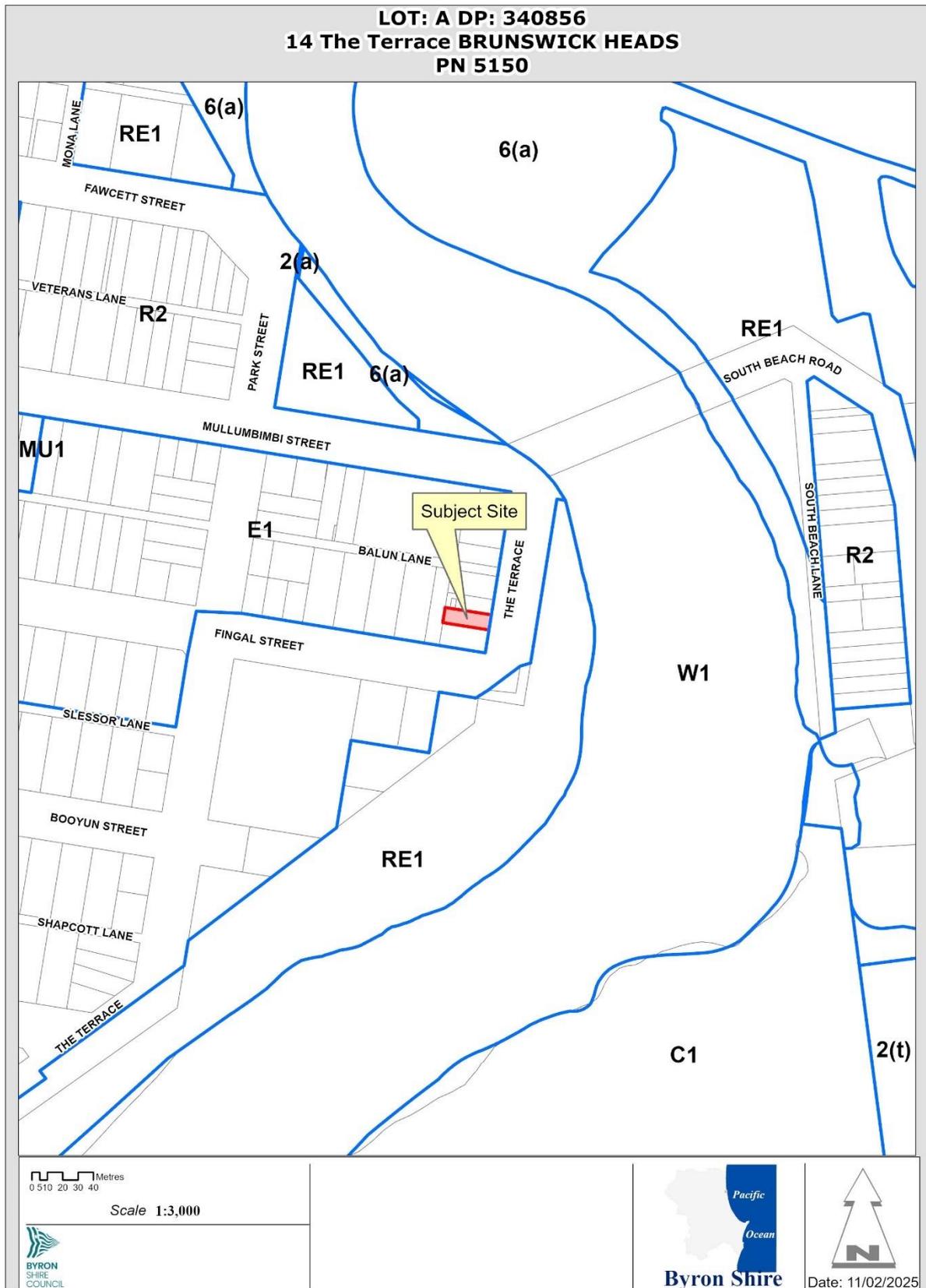


Figure 1: Locality plan.

## Assessment:

### INTRODUCTION

#### History/Background

The following determinations for the property were identified in Council's records:

- 5       • 6.1976.2194.1 – shops and residence, approved 27 September 1976.
- 5.1989.338.1 – extensions to dwelling, approved 11 August 1989.
- 6.1989.2588.1 – shop and residence, approved 22 August 1989.
- 10.2011.499.1 – change of use commercial, rejected 11 November 2011.
- 10       • 10.2011.507.1 – change of use from butcher to liquor store, rejected 15  
November 2011.
- 10.2012.187.1 – change of use from butcher to café, approved 1 May 2012.

#### Description of the proposed development

This application seeks approval for alterations and additions to an existing shop top housing and commercial premises at 14 The Terrace, Brunswick Heads.

15 The following works are proposed:

##### 1. Ground Floor (Shop and Café)

- Minor demolition works.
- Repair existing footpath awning.
- Changes to the floor plan, including:
  - 20       ○ Amended café storeroom.
  - Amended apartment entrance.
  - Amended shop storeroom.
  - Realigned common store/services.
  - Amended bin storage.
  - 25       ○ New windows in existing openings.
  - New screened hardwood gate to the apartment entrance.
  - New floor and wall tiles.

##### 2. First Floor (Shop Top Housing)

- 30       • Minor demolition works.
- Changes to the floor plan, including:
  - Kitchen, dining and living area.

- Reconfiguration of beds 1, 2, and 4 including the provision ensuites to beds 1 and 4.
- Amended apartment entry.
- Bathroom/laundry alterations.
- 5 ○ Enlarging outdoor terrace.
- New windows.
- Relocation of existing AC condensers and exhaust fan from Café, and
- Installation of solar panels.
- 10 ● Installation of a pop out roof to improve solar access and air flow to the first-floor apartment.

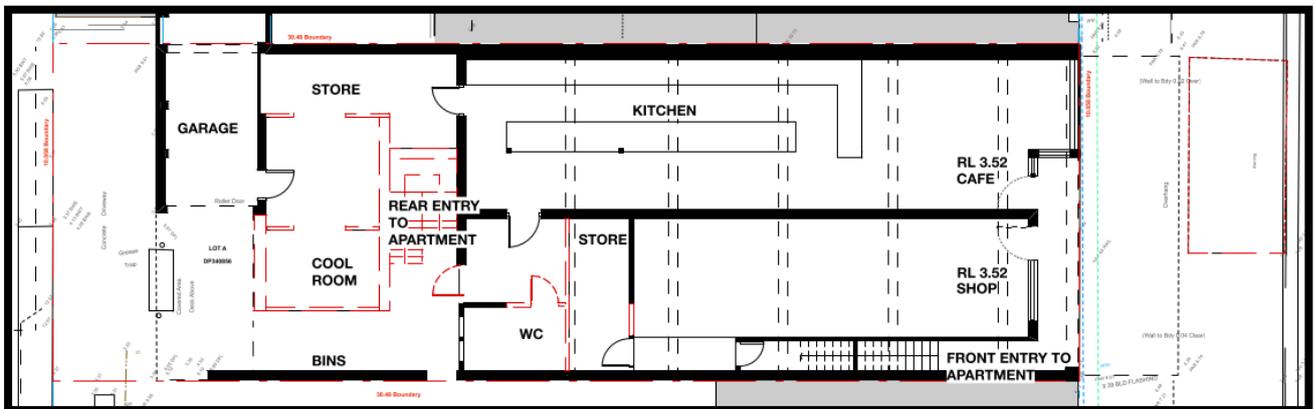


Figure 2: Existing/demolition ground floor plan.

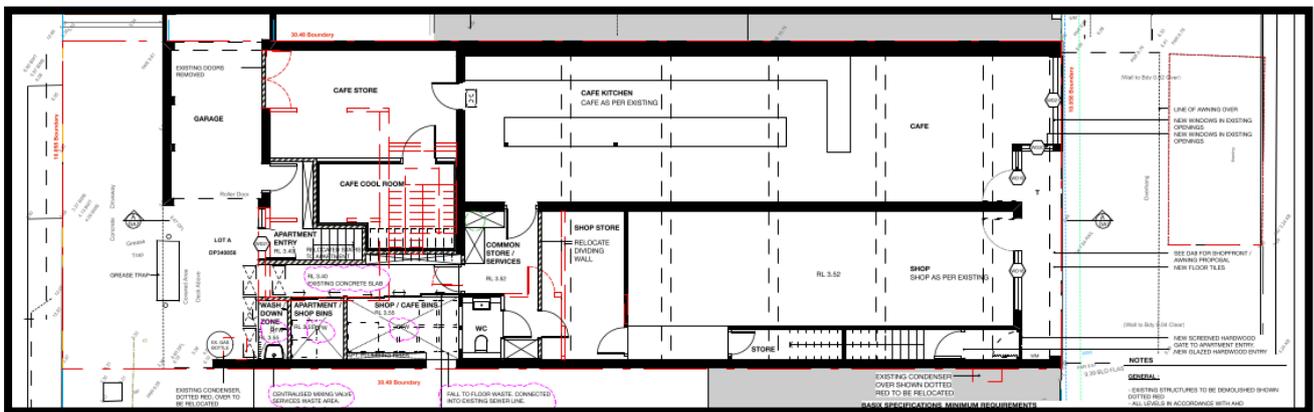


Figure 3: Proposed ground floor plan.

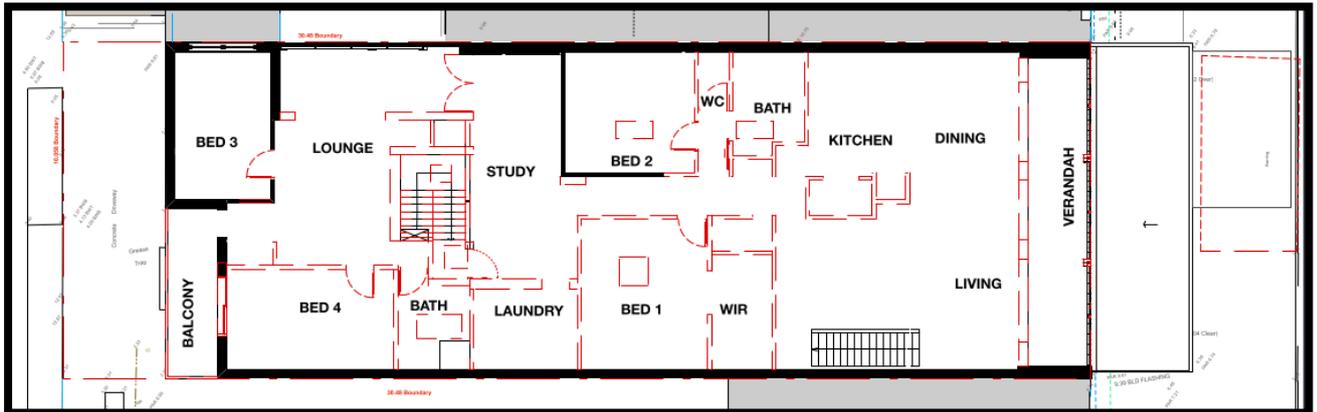


Figure 4: Existing/demolition first floor plan.

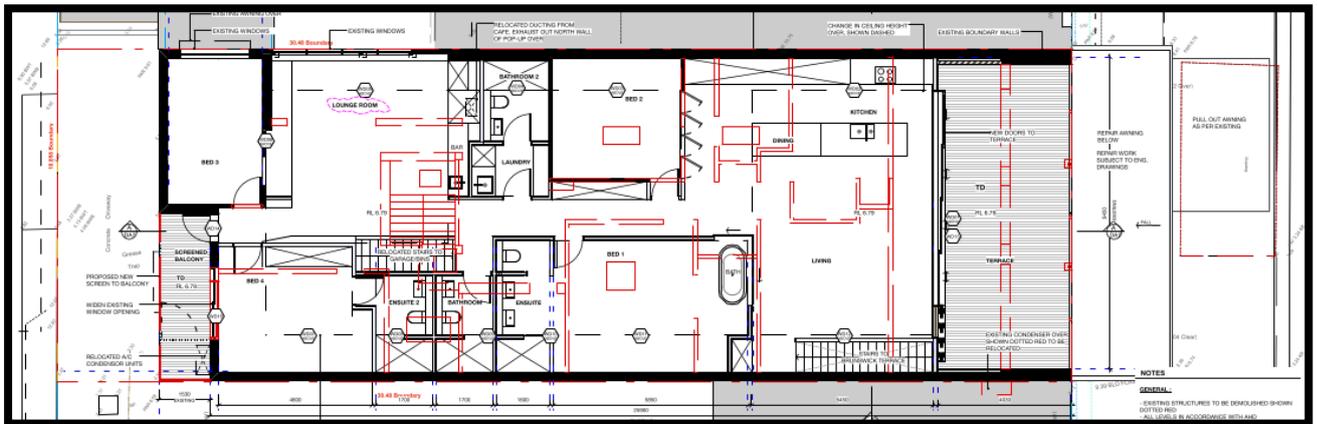
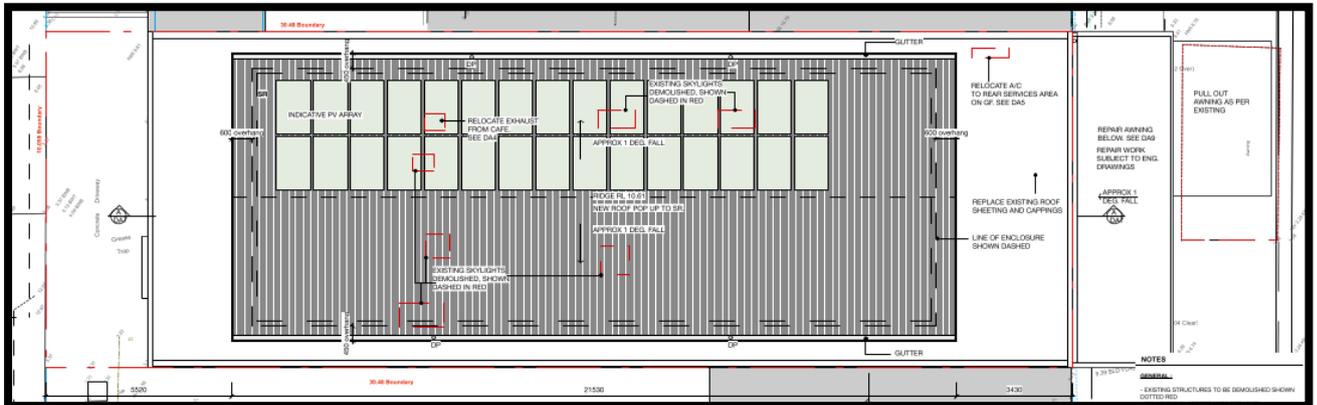


Figure 5: Proposed first floor plan.



5

Figure 6: Proposed roof plan.

## Description of the site

The site contains an existing two-storey building with a retail shop and cafe downstairs and shop-top housing upstairs comprising a four-bedroom apartment. Vehicle access to the building is at the rear via Fingal Street over a right of carriageway of 16 The Terrace.

10

A site inspection was carried out on 5 December 2024.



Figure 7: Aerial image of the site with zoning overlay.



Figure 8: View of site from The Terrace.



Figure 9: View of the site looking NW.



Figure 10: Streetscape.



Figure 11: Rear site access off Fingal Street.



Figure 12: Rear of building.

## BYRON SHIRE COUNCIL

Land is legally described	LOT: A DP: 340856	
Property address	14 The Terrace BRUNSWICK HEADS	
Land is zoned:	E1 Local Centre	
Land area is:	303.6m <sup>2</sup>	
Constraints and Attributes:	Flood Liable Land, Acid Sulfate Soils Class 4	
	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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### SUMMARY OF REFERRALS

Referral	Issue
Environmental Health Officer	No objections subject to conditions.
Development Engineer	No objections subject to conditions.
Building Surveyor	Council's building surveyor noted that the development is generally capable of complying with the deemed to satisfy provisions of the BCA, subject to full section 64 fire upgrade required due to amount of works proposed. Conditions to apply.
S64 / Systems Planning Officer	No objections subject to conditions.

### 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 not bush fire prone land.

**SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES**

5 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><b>Resilience and Hazards SEPP 2021</b></p> <p><u>Chapter 2 Coastal Management</u></p> <p>The subject site is with the Coastal Use Area and Coastal Environment Area.</p> <p>The proposed development is for alterations and additions to an existing building within an established commercial area. The proposal will have a negligible impact on the coastal environment and as satisfactory having regard to the matters for consideration under Chapter 2 of the Resilience and Hazards SEPP.</p> <p><u>Chapter 4 Remediation of Land</u></p> <p>The site has a long history of commercial and residential use and is not listed on the Council or EPA contaminated land registers. Based on the available information, the probability of contamination is low, and the site is considered to be suitable for ongoing residential and commercial use in its current state.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><b>Sustainable Buildings SEPP 2022</b></p> <p>A valid BASIX certificate for alterations and additions was submitted with the DA. Commitments for energy, water and thermal comfort are shown on the DA plans.</p> <p>The non-residential component of the development has an estimated cost of less than \$10m and therefore Chapter 3 of the Sustainable Buildings SEPP does not apply.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

- 10
- (a) The proposed development is defined in the LEP 2014 Dictionary as **Shop Top Housing** and **Commercial Premises**.
  - (b) The land is within the E1 Local Centre according to the Land Zoning Map.
  - (c) The proposed development is **permitted with consent**; and
  - (d) Regard is had for the Zone Objectives as follows:

## BYRON SHIRE COUNCIL

Zone Objectives of E1 Local Centre	Consideration
To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.	The proposal is consistent with the zone objectives.
To encourage investment in local commercial development that generates employment opportunities and economic growth.	
To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.	
To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.	
To maximise public transport patronage and encourage walking and cycling.	

Provision	Compliance	Comment															
4.3 Height of buildings	Yes	A maximum building height of 9m applies for the site. The proposed development has a maximum height of 7.1m and complies with the development standard.															
4.4 Floor space ratio	No	<p>A maximum floor space ratio (FSR) of 0.75:1 applies for the site.</p> <p>The FSR for the site is calculated as:</p> <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">Ground</th> <th style="text-align: center;">First</th> <th style="text-align: center;">Total</th> <th style="text-align: center;">FSR</th> </tr> </thead> <tbody> <tr> <td style="padding-left: 20px;">Existing</td> <td style="text-align: center;">185m<sup>2</sup></td> <td style="text-align: center;">216.2m<sup>2</sup></td> <td style="text-align: center;">401.2m<sup>2</sup></td> <td style="text-align: center;">1.32:1</td> </tr> <tr> <td style="padding-left: 20px;">Proposed</td> <td style="text-align: center;">185m<sup>2</sup></td> <td style="text-align: center;">201.8m<sup>2</sup></td> <td style="text-align: center;">386.8m<sup>2</sup></td> <td style="text-align: center;">1.26:1</td> </tr> </tbody> </table> <p>Both the existing and proposed FSR exceed the maximum FSR for the site.</p>		Ground	First	Total	FSR	Existing	185m <sup>2</sup>	216.2m <sup>2</sup>	401.2m <sup>2</sup>	1.32:1	Proposed	185m <sup>2</sup>	201.8m <sup>2</sup>	386.8m <sup>2</sup>	1.26:1
	Ground	First	Total	FSR													
Existing	185m <sup>2</sup>	216.2m <sup>2</sup>	401.2m <sup>2</sup>	1.32:1													
Proposed	185m <sup>2</sup>	201.8m <sup>2</sup>	386.8m <sup>2</sup>	1.26:1													
6.6 Essential services	Yes	<p><u>Utility Services</u></p> <p>The site will retain connection to existing utility services. A Concept Stormwater Plan has been prepared which is considered to be suitable.</p> <p><u>Vehicular access</u></p>															

Provision	Compliance	Comment
		The site has vehicular access to Fingal Street via a right of carriageway 10 feet wide over the neighbouring land to the south, known as SP47715 or 16 The Terrace, Brunswick Heads.

**Clause 4.6 Exceptions to Development Standards**

The applicant has sought a variation to Clause 4.4 (Floor space ratio) by proposing a FSR of 1.26:1 where the maximum FSR for the site is 0.75:1, which is a 68% variation.

5 The applicant has submitted a written request that strict compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental grounds to vary the controls as follows:

- The proposal relates to alterations and additions of an existing building where the FSR proposed is lower than the existing FSR.
- 10 • The proposal will retain the existing dwelling on the first floor. A reduction in GFA is proposed which is a result of an increased balcony.
- The existing commercial floor space will be maintained.
- The proposal is sought to improve the functionality and amenity of the existing building.

15 Further, the proposal is in the public interest having regards to the objectives of the development standard.

The concurrence of the Planning Secretary is not required.

It is recommended that the development standard **can be varied** in this instance.

The planner is satisfied that:

- 20 a) The development is satisfactory having regard to the requirements outlined in clause 4.6;
- b) The development is satisfactory having regard to applicable Department of Planning, Infrastructure and Environment Circulars;
- c) The development is satisfactory having regard to relevant caselaw;
- 25 d) The DA demonstrates that compliance is with the development standard is unreasonable and unnecessary;
- e) The DA demonstrates that there are sufficient environmental planning grounds to justify contravening the standard;
- f) The DA demonstrates that that the development in the public interest;
- 30 g) The DA demonstrates that the development is consistent with the objectives of the standard and the zone;
- h) The DA demonstrates how the development produces a better planning outcome than one that strictly complied with the development standard; and
- 35 i) The DA demonstrates what it is about the grounds of the request that are particular to the proposed development on this site, and that there has to be something particular to the development on this site to justify the variation.

**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 with relevance to the subject application.

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

**Chapter B3 Services**

Provision	Compliance	Comment
B3.2.1 Provision of Services	Yes	The site has access to all services.
B3.2.3 Stormwater Management	Yes	Roof drainage at the rear to connect into the existing stormwater drainage pit as shown on the stormwater concept plan.

**Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access**

Provision	Compliance	Comment
B4.2.1 Traffic Impact	Yes	The proposed development will not intensify traffic generation in the surrounding area.
B4.2.3 Vehicle Access and Manoeuvring Areas	Yes	The site has a single car garage at the rear of the site for use by residents of the shop top housing unit.
B4.2.5 Car Parking Requirements B4.2.7 Car Parking Credits and Street Parking	Yes	<p>As there is no increase in GFA on the ground floor and no bedroom increase, parking for the site is made available by the single space at the rear and by way of parking credits that exist for the uses as approved in DA 10.2012.187.1.</p> <p>Car parking credits are calculated based on the parking requirement for the approved use (in accordance with Table B4.2.12), less the number of parking spaces specified by current approvals.</p> <p>Parking credits for the site are calculated as:</p> <ul style="list-style-type: none"> <li>• 2 parking spaces for the first-floor unit.</li> <li>• 7.3 parking spaces for the ground floor shops.</li> <li>• -1 parking space for the existing single car garage at the rear of the site.</li> </ul> <p>The proposed alterations and additions on both the</p>

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

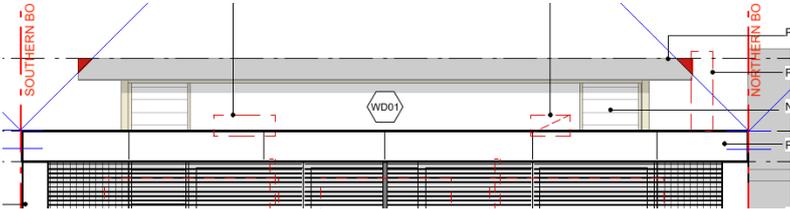
Provision	Compliance	Comment
		ground and first floors do not increase the potential for traffic generation and therefore the existing parking situation is acceptable based on the above parking credits.

### Chapter C2 Areas Affected by Flood

Provision	Compliance	Comment
C2.3.3 Flood Planning Matrix	Yes, subject to condition	<p>The ground floor shops, and storage areas are non-habitable spaces under DCP 2014. The minimum floor level is required to be above the 5% AEP Flood Level.</p> <p>The 2050 flood planning level (FPL) is 3.46m. The upper level residential component of the development is above this height.</p> <p>A condition is recommended for the use of flood compatible materials and services for ground floor building elements below the 2050 FPL.</p>

# BYRON SHIRE COUNCIL

## Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones

Provision	Compliance	Comment
D1.2.1 Building Height Plane	No but acceptable	<p>Very similar to existing situation.</p> <p>The current building breaches the BHP on the northern and southern elevations. The new pop-up roof works, however, are largely contained within a 45-degree arc of the height of the existing boundary walls, with only a minor encroachment into the BHP where the eaves are:</p>  <p>As is discussed in the remainder of this table, the pop-up roof is not considered to impose amenity concerns on the neighbouring buildings. Therefore, the breach of the BHP is acceptable.</p>
D1.2.2 Setbacks from Boundaries	No but acceptable	No change to existing situation.
D1.2.3 Privacy	Yes, subject to condition	<p>The proposed alterations and additions will not compromise the privacy of adjoining residences or prejudice future development of adjoining sites in relation to privacy.</p> <p>New high-set windows are to be installed on all sides of the pop-up roof section to improve interior lighting and airflow for the unit. These windows have a sill height of 2.7m and will not permit clear lines of sight between occupants of the unit and neighbouring developments.</p> <p>Balconies overlooking The Terrace and the rear access lane are to be screened with adjustable shade devices, which will offer improved privacy for residents and neighbours.</p> <p>The existing windows of the lounge room facing north are recommended via a condition to incorporate privacy measures protect the privacy of the northern neighbours.</p>

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

Provision	Compliance	Comment
D1.2.4 Solar Access	Yes	<p>The proposed pop-up roof will marginally increase the degree of overshadowing experienced by the adjoining property to the south at 12 The Terrace.</p> <p>Currently, shadows are cast over a dead roof space and outdoor storage areas and have little to no impact on the solar access or amenity of the adjoining commercial development.</p> <p>Submissions have been received stating that the development could potentially prejudice the solar access for future first floor additions at 16 The Terrace.</p> <p>Overall, the proposed development is satisfactory in relation to solar access. The pop-up roof is setback from the side boundary to minimise overshadowing impacts and is likely to have a minor impact on solar access for adjoining properties.</p>
D1.2.6 Character & Visual Impact	Yes	<p>The proposed additions are compatible with the existing and desired future character of Brunswick Heads. The proposed pop-up roof maintains a similar roof profile with adjoining development and is 'stepped in' from boundaries so that it will not be prominent in views from The Terrace or adjacent public reserves.</p>

#### D1.10 Shop Top Housing

Provision	Compliance	Comment
D1.10.1 Density Control	Yes	<p>The site has an area of 306m<sup>2</sup> which allows for a maximum density of two shop-top housing units. The proposed development involves one unit which complies with the maximum density limit.</p>
D1.10.2 Accessibility	Yes	<p>The shop top housing unit has a separate stair access to The Terrace.</p>
D1.10.3 Private Open Space	Yes	<p>The proposed development incorporates a 36m<sup>2</sup> balcony overlooking The Terrace and the Brunswick River. The balcony offers adequate private open space for residents with solar access and pleasant views of the surrounding area.</p>
D1.10.4 Sound Proofing	Yes	<p>The shop top housing arrangement is already existing with the proposed new floor plan not differing substantially from the current layout. Council's environmental engineer reviewed the proposal and</p>

## BYRON SHIRE COUNCIL

Provision	Compliance	Comment
		found that no further sound proofing was necessary.
D1.10.5 Clothes Drying Area	Yes	A small balcony exists on the western side of the building which could be used for clothes drying. Realistically, most drying will likely occur via clothes dryer within the laundry.
D1.10.6 Site Facilities	Yes	The building has access to adequate site facilities.

### 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Yes – subject to condition requiring section 64 upgrade.
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

### 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

5

Impact on:	Likely significant impact/s?
<b>Natural environment</b>	The proposal will not have a significantly adverse impact on the natural environment of the locality.
<b>Built environment</b>	The proposal will not have a significantly adverse impact on the

	built environment of the locality.
<b>Social Environment</b>	The proposal will not have a significant social impact on the locality.
<b>Economic impact</b>	The proposal will not have a significant economic impact on the locality.
<b>Construction Impacts</b>	The development will generate minor impacts during its construction. Conditions of consent recommended to control hours of work, builders waste, construction noise, installation of sedimentation and erosion control measures and the like to ameliorate such impacts.

**4.6.2 Marine Estate Management Act 2014**

The development is unlikely to have an effect on the plants or animals within the Cape Byron Marine Park or their habitat.

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

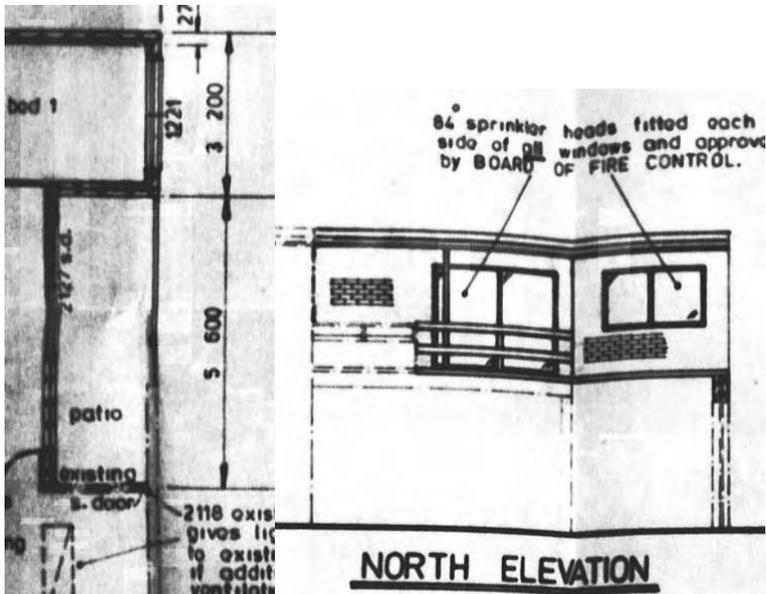
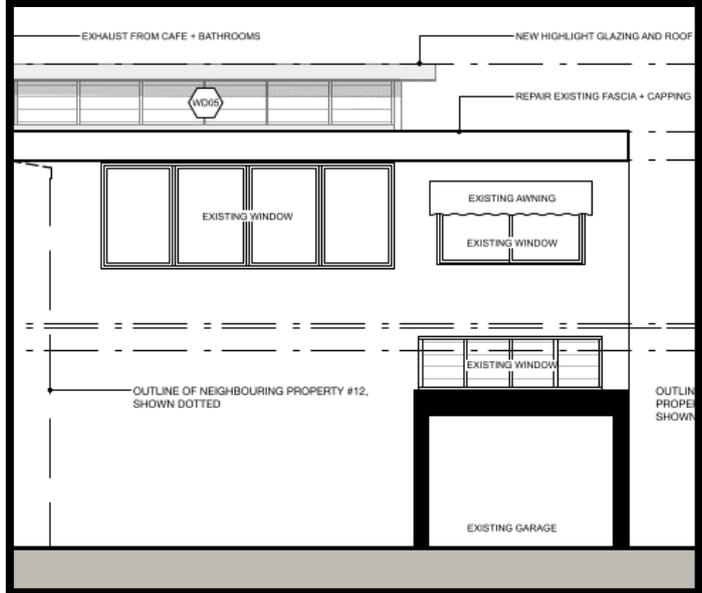
- 5 The site is considered suitable for the proposed development.

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

The development application was publicly exhibited for a period of 14-days in accordance with the Community Participation Plan.

- 10 There were three submissions made on the development application as follows:

Issue raised	Planner comment
<p>Legal Access / ownership of Lot 1 DP558291</p> <p>There is no legal right to access the adjacent garage on Lot 1 DP558291.</p>	<p>The adjacent garage on Lot 1 DP558291 falls outside of the scope of this development application, being a separate lot to the subject site and under separate ownership. No works are proposed within this lot nor is there any reliance on it for access or car parking.</p> <p>Any legal agreements to access this land are a private matter for the respective landowners and not something dealt with by this development application.</p>
<p>Privacy</p> <p>The proposed development has large first-floor windows on the northern elevation that overlook No 12 The Terrace.</p>	<p>There is private open space at 12 The Terrace that is in the vicinity of first-floor northern windows of the proposed bedroom and lounge room. These are existing; however, not all were approved in their current state. DA 5.1989.338.1 approved the current windows proposed for bedroom 3 but not the windows leading to the proposed loungeroom, which were</p>

Issue raised	Planner comment
	<p>originally setback into the site behind a patio area. The patio was filled in some time ago and the windows moved to the boundary – see images below.</p>  <p><i>Segments of plans approved under DA 5.1989.338.1 showing patio on northern elevation.</i></p>  <p><i>Proposed north elevation showing windows on the boundary.</i></p> <p>Whilst it could be argued that the potential for overlooking existed in the approved patio design, the current boundary windows situation is not approved nor consistent with council policies to protect neighbouring privacy and amenity. It's therefore considered reasonable in this case to take measures to</p>

Issue raised	Planner comment
	protect amenity and reduce the potential for overlooking. This is recommended via a condition to require privacy measures be undertaken on these windows to prevent overlooking of the neighbouring private open space.
<p>Fire protection</p> <p>Fire risk is exacerbated by:</p> <ul style="list-style-type: none"> <li>• No wall between Lot 1 DP 558291 and the garage space within No 13.</li> <li>• First-floor northern windows.</li> </ul>	A condition is recommended requiring a full section 64 upgrade of the building to bring it into compliance with the fire protection provisions of the Building Code of Australia. This will all the areas of contention along the northern boundary.
<p>Protrusion of awning</p> <p>The protrusion of the awning from bedroom 3, into the airspace of No 12 The Terrace, as well as satellite dish overhanging No 12's airspace should be removed.</p>	<p>The awning falls outside of the site boundaries and is therefore not assessed as part of this DA. Any reference to it on the plans has been crossed off.</p> <p>A condition is recommended requiring a full section 64 upgrade of the building to bring it into compliance with the fire protection provisions of the Building Code of Australia. This will cover issues such as unauthorised structures.</p>
<p>Vehicle access during construction</p> <p>Access through the right-of-way at the rear of the site.</p>	A condition is recommended requiring a Construction site management plan that will deal with traffic management.
<p>Overshadowing of potential development of No 16 The Terrace</p> <p>Lot 7, 16 The Terrace is airspace above the existing ground floor of the building as shown on the Strata Plan 47715.</p>	The pop-up roof is setback from the side boundary to minimise overshadowing impacts. The slight encroachment into the building height plane is only the edge of the eaves and is likely to have a minor impact on solar access for the adjoining property to the south.

## 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 7.12 Levy 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"/>

## CONCLUSION

- 5 The DA proposes Alterations and Additions to the existing development at 14 The Terrace, Brunswick Heads 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 a serviced, unconstrained property and is considered suitable for the proposed
- 10 development.
- The application appropriately addresses the relevant constraints applying to the site and is recommended for approval subject to conditions of consent in Attachment 2.

**Report No. 13.8      Status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP)**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy

**File No:** I2025/212

**Summary:**

10 At the Council (Planning) Meeting of 12 October 2023 it was resolved as part of **23-461** that Council: *“Receives status reports monthly to each Ordinary (Planning) Meeting on all DA’s that are being processed by Council for determination by other bodies such as the Northern Regional Planning Panel or the Independent Planning Commission.”*

15 **Resolution 22-559** further requires: *“That Councillors receive, as a standard procedure, a copy of the Assessment Report prepared by Council staff for any DA that is to be determined by the Northern Regional Planning Panel on the next working day after it is lodged on the Planning Portal.”*

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20 **RECOMMENDATION:**

**That Council notes the status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP).**

# BYRON SHIRE COUNCIL

## Report

5 The following applications are a matter for determination by the Northern Regional Planning Panel in accordance with the Sydney District & Regional Planning Panels Operational Procedures. There are no matters currently with the Independent Planning Commission.

Planning Authority	Application Description and link	Status
Northern Regional Planning Panel	<p>PPSNTH-285</p> <p>Community Title Subdivision</p> <p>53 McAuleys Lane Myocum 2481</p> <p><a href="#">Community Title Subdivision   Planning Portal - Department of Planning and Environment (nsw.gov.au)</a></p> <p>Link to DA tracker for DA 2023.454.1 information and documents here:</p> <p><a href="#">Byron Shire Council - Application Tracker (nsw.gov.au)</a></p>	<p>Submitted 12/12/2023</p> <p><a href="#">Record of Briefing - PPSNTH-285.pdf</a></p> <p>Determination meeting date to be confirmed</p>
Northern Regional Planning Panel	<p>PPSNTH-405</p> <p>Review of Determination (Refusal) - Temporary extension to existing coastal protection works</p> <p>144 Bayshore Drive Byron Bay 2481</p> <p><a href="#">Review of Determination (Refusal) - Temporary extension to existing coastal protection works   Planning Portal - Department of Planning and Environment</a></p> <p>Link to DA tracker for DA 2023.287.2 information and documents here:</p> <p><a href="#">Byron Shire Council - Application Tracker</a></p>	<p>Submitted 13/01/25</p> <p>Review of determination (refusal) comprising the temporary extension of an existing geobag wall on private property.</p> <p>The Development Application was refused on 26 September, 2024 by the Northern Regional Planning Panel.</p> <p>Under assessment.</p>

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties

### Recent Resolutions

- 23-461

### 5 Legal/Statutory/Policy Considerations

The Planning Panels determine regionally significant development applications (DAs), certain other DAs and s4.55(2) and s4.56 modification applications including:

- Regionally significant development, as outlined in Schedule 6 of the *State Environmental Planning Policy Planning Systems 2021*
- 10 • Regionally significant development relating to Aboriginal land, as outlined in Chapter 3 of the *State Environmental Planning Policy Planning Systems 2021*
- Development with a capital investment value (CIV)\* over \$30 million.
- Development with a CIV\* over \$5 million which is:
  - o Council related
  - 15 o lodged by or on behalf of the Crown (State of NSW)
  - o private infrastructure and community facilities
  - o eco-tourist facilities
  - o extractive industries, waste facilities and marinas that are designated development
  - 20 o certain coastal subdivisions and
  - o certain coastal protection works.

\*Capital investment value (CIV) is calculated at the time of lodgement of the DA for the purpose of determining whether an application should go to a Planning Panel - refer to Planning Circular PS 10-008.

- 25 Section 10 of the Sydney District & Regional Planning Panels Operational Procedures talks to *Roles of councils and other panels.*

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8

10.1 states the elected Council and Council staff have different roles in the assessment of DAs. Under the Local Government Act 1993, the independence of Council staff is protected in the preparation of advice and recommendations. Staff members are not subject to direction by the Council or by a Councillor as to the content of any advice or recommendation made by the staff member. Equally, a Council or Councillor is not bound by the advice or recommendation made by a member of staff.

10.3 states historically, one of the roles of an elected Council has been to determine or make decisions on DAs in their capacity as a consent authority. There are occasions, however, where the determination role is performed by other people or bodies, either because the Council has delegated that function, or because it has been conferred upon another person or body. For example, where local planning panels have been introduced, elected Councils no longer determine DAs (see section 2.17 of the EP&A Act). The Panel for the area in which the development is to be carried out is the consent authority for regionally significant development (see section 4.5 of the EP&A Act).

10.4 states Council staff are responsible for post-determination functions including:

- notifying Panel determinations on DAs (see sections 4.7(2)(e), 4.18 and 4.59 of the EP&A Act),
- registering Panel development consents on the NSW Planning Portal (see sections 4.7(2)(e) and 4.20 of the EP&A Act), and
- monitoring and enforcing compliance with conditions of the development consent.

The notice of determination should be issued once Council receives a copy of the endorsed and final determination from the Panel. The notice of determination must include all conditions imposed by the Panel, including any additional or amended conditions.

*The Council has no power to amend conditions or include additional conditions following the Panel's determination.*

Council will advise any person who made a submission on the DA of the determination.

The Council continues to be responsible for the monitoring of, and enforcing compliance with, any conditions of the development consent.

Where an application has been approved subject to a 'deferred commencement' condition Council is responsible for determining whether the requirements of the condition have been met (see section 4.16(3) of the EP&A Act). Council advises the chair of the Panel in writing when the matter specified in the condition has been satisfied (see section 277(2) of the EP&A Regulation)

[Microsoft Word - Att C - Amended RPP Operational Procedures.docx \(amazonaws.com\)](#)

11.13 talks to *Council representation to the Planning Panel.*

An elected Council may make a submission on a DA within their LGA that is to be determined by a Panel up to seven days before the Panel meeting. After the assessment report is sent to the Secretariat, it may be given to the elected Council to assist in its decision as to whether it will be making a submission to the Panel. The elected Council's

submission should not be prepared by persons involved in the assessment of the application but could be prepared by another Council officer, or a consultant.

5 A Council submission should not be specifically referenced in the assessment report or recommendations prepared by the Council staff. If Council makes a submission, a staff representative or individual Councillors may register to address the Panel at the meeting to express the views of Council. Councillors who are also Panel members have an independent role because they have been nominated by their Council as its nominee to the Panel.

A Code of Conduct also applies to members of the Planning Panels.

10 [Microsoft Word - Sydney and Regional Planning Panels Code of Conduct formatted-accessible August 2020.docx \(shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com\)](#)

#### Appeals from Planning Panel determinations

Section 8.15(4) of the EPA Act was introduced on 1 March 2018. It provides relevantly:

15 ***If the determination or decision appealed against under this Division was made by a Sydney district or regional planning panel or a local planning panel, the Council for the area concerned is to be the respondent to the appeal but is subject to the control and direction of the panel in connection with the conduct of the appeal. The Council is to give notice of the appeal to the panel.***

20 In respect of the conduct and potential resolution of appeals, Councils are subject to the direction and control of planning panels in respect of decisions they make after 1 March 2018.

The Land and Environment Court has said that in circumstances where the panel and Council have conflicting views on a development, the appropriate approach would be for the panel to apply to be joined as a party to the appeal proceedings.

#### 25 **Financial Considerations**

None relevant to this report.

#### **Consultation and Engagement**

Applications are exhibited as per the Council's Community Participation Plan.

30 Otherwise, consultation, engagement and reporting must be in accordance with the Planning Panels Operations Procedure and Code of Conduct.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.1      Report of the Local Traffic Committee Meeting held on 18 February 2025**

5    **Directorate:**                      Infrastructure Services  
**File No:**                              I2025/202

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**Summary:**

10    The attachment to this report provides the minutes of the Local Traffic Committee Meeting held electronically on 18 February 2025 for determination by Council.

Council's action on the LTC advice will be:

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

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

35

**RECOMMENDATION:**

- 5
1. That Council notes the minutes of the Local Traffic Committee Meeting held on 18 February 2025.

2. That Council adopts the following Committee Recommendation:

**Report No. 6.1 510 Goonengary Road, Intersection Upgrade**  
File No: I2024/1716

**Committee Recommendation 6.1.1**

That the Local Traffic Committee supports the signage and line markings associated with the 510 Goonengerry Road intersection works, as shown in Attachment 1 (E2024/149675).

3. That Council adopts the following Committee Recommendations:

**Report No. 6.2 Federal Village Main Street - Short Term Road Safety Treatments**  
File No: I2024/1587

**Committee Recommendation 6.2.1**

That Council supports the following:

1. Speed limit change from 50kph to 30kph on Federal Drive from Binna Burra Road to 240m north of Binna Burra Road;
2. Installation of signage as per TfNSW speed zone review;
3. Edge line and centre line marking on Federal Drive;
4. Pedestrian build-out and advisory signage; and
5. Threshold treatment on the southern end of Federal Drive.

4. That Council adopts the following Committee Recommendations:

**Report No. 6.3 Changes to the Intersection of Warrambool Road, Coomburra Crescent and Goondooloo Drive in Ocean Shores**  
File No: I2025/5

**Committee Recommendation 6.3.1**

That the Council supports the following changes to the design of the intersection of Coomburra Crescent, Goondooloo Drive and Warrambool Road in Ocean Shores:

1. New Stop signs instead of Give Way signs on Coomburra Crescent and Goondooloo Drive.
2. No Stopping signage and line marking around the entire intersection.
3. New concrete splitter island on Goondooloo Drive.
4. Chevron line marking and RRPMS in lieu of concrete island on Coomburra Crescent.
5. Change to extent of BB double centre line marking around intersection.

5. That Council adopts the following Committee Recommendations:

**Report No. 6.4 Blues Festival 2025 - Traffic Management Plan**  
File No: I2025/49

**Committee Recommendation 6.4.1**

That:

1. Council endorses the regulatory traffic management facilities and devices, including signs and traffic controller provisions proposed for the Council controlled public road network as outlined in attachment 1 (E2025/6308) for the Byron Bay Bluesfest 2025 to be held from Wednesday 16th April 2025 to Monday 21st April 2025, subject to:
  - a) Separate approvals by NSW Police and TfNSW being obtained, noting that the event is on a state road or may impact the state road network;
  - b) The event be held through the implementation of the events Traffic Management Plan and Traffic Control Plan(s) as per attachment 1 (E2025/6308). The Traffic Management Plan is to include contingency measures in case the level of queuing fails to meet KPI requirements. It is noted that such queuing may be caused by the introduction of paid parking.
  - c) The Traffic Management Plan and the Traffic Guidance Scheme(s) to be implemented by those with relevant and current TfNSW accreditation;
  - d) Traffic camera data recorders or similar be used to obtain an accurate record of traffic impacts at KPI queue locations;
  - e) The impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic

impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;

2. The event organiser:

- a) advertises the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
- b) provides a copy of the advert for Council's web page;
- c) gives consideration of any submissions received;
- d) informs community and businesses that are directly impacted (e.g. adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
- e) arranges for private property access and egress affected by the event;
- f) liaises with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event;
- g) consults with emergency services and any identified issues be addressed;
- h) holds \$20m public liability insurance cover which is valid for the event;
- i) pays Council's Road Event Application Fee prior to the event.

3. An error was identified in the original Report (I2025/49) to the Committee where the date of the festival was incorrectly listed as 2024 instead of 2025.

6. That Council adopts the following Committee Recommendation:

**Report No. 6.5 315 Coorabell Road - Upgrade turning treatment for the site access**

File No: I2025/109

**Committee Recommendation 6.5.1**

**That the Council supports the signage and line markings associated with the 315 Coorabell Road intersection upgrade works, as shown in Attachment 1 (E2025/13840).**

7. That Council adopts the following Committee Recommendations:

**Report No. 7.1 Adaptive Pro Surf Championship - 23 March - 30 March**

File No: I2024/1713

**Committee Recommendation 7.1.1**

**That:**

- 1. Council supports the Adaptive Pro Surf Competition 23 March through to 30 March 2025**
  - 2. The Council support, in Part 1, is subject to:**
    - a) separate approvals by NSW Police and TfNSW being obtained;**
    - b) the event organiser providing council with an updated Traffic Management Plan and Traffic Guidance Scheme/s for the event;**
    - c) development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;**
    - d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and Variable Message Signage (VMS) a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
    - e) the event be notified on Council's web page and social media with the event organiser supplying Council with the relevant information;**
    - f) access to Lawson Street is to be unrestricted at all times.**
  - 3. The event organiser:**
    - a) Arranges for the event to be notified on Council's webpage a minimum one week prior to the TGS being implemented;**
    - b) Undertakes consultation with affected community and businesses including adequate response/action to any raised concerns.**
    - c) Undertakes consultation with emergency services and any identified issues addressed.**
    - d) Holds \$20m public liability insurance cover which is valid for the event.**
    - e) Paying Council's Road Event Application Fee prior to the event.**
- 8. That Council adopts the following Committee Recommendations:**

**Report No. 8.1 Event - Westpac Helicopter Byron Coastal Charity Walk – 3rd May 2025**

File No: I2024/1707

**Committee Recommendation 8.1.1**

**That:**

- 1. Council supports the Westpac Life Saver Rescue Helicopter fundraiser,**

**Byron Coast Charity Walk, to be held Saturday 4th May 2025 from 6.00am – 5.00pm.**

- 2. Council support, in Part 1, is subject to:**
  - a) The development of a Traffic Guidance Scheme (TGS) and Traffic Management Plan(s) for the 2025 event by those with relevant and current TfNSW accreditation. The TGS(s) and Traffic Management Plan is to include, but is not limited to, the following:**
  - b) Signage, which specifies the date, hours and nature of the event, be positioned at the entrance and exit of Seven Mile Beach Road one week prior to the event;**
  - c) On the day of the event, at 500m intervals on Seven Mile Beach Road, and facing both directions of travel, signs advising of “Special Event – Charity Walk Ahead” (or similar) are installed prior, and removed after, the event occurs;**
  - d) A safety induction for participants advising of hazards be provided.**
  - e) Implementation of the Traffic Management Plan and Traffic Guidance Scheme/s as designed by those with appropriate accreditation and implemented by people with appropriate accreditation, including traffic controllers.**
  
- 3. The event organiser:**
  - a) Arranges for the event to be notified on Council’s webpage a minimum one week prior to the TGS being implemented;**
  - b) Undertakes consultation with affected community and businesses including adequate response/action to any raised concerns.**
  - c) Undertakes consultation with emergency services and any identified issues addressed.**
  - d) Holds \$20m public liability insurance cover which is valid for the event.**
  - e) Pays Council’s Road Event Application Fee prior to the event.**

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

**Report No. 8.2 Event - Bangalow Billycart Derby May 2025**  
File No: I2024/1712

**Committee Recommendation 8.2.1**

**That:**

- 1. Council supports the Bangalow Billycart Derby to be held on 18 May 2025.**
- 2. Council support, in Part 1, is subject to:**
  - a) separate approvals by NSW Police and TfNSW being obtained;**
  - b) the event organiser providing council with an updated Traffic Management Plan and Traffic Guidance Scheme/s for the event;**
  - c) development and implementation of a Traffic Management Plan and**

**Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;**

- d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and appropriate Variable Message Signage a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
- e) the event be notified on Council's web page with the event organiser supplying Council with the relevant information.**

**3. The event organiser:**

- a) informs the community and businesses that are directly impacted (e.g. within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
- b) arranges for private property access and egress affected by the event;**
- c) liaises with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
- d) consults with emergency services and any identified issues be addressed;**
- e) holds \$20m public liability insurance cover which is valid for the event;**
- f) pays Council's Road Event Application Fee prior to the event;**
- g) does not place any signage on the road related area of the Pacific Highway.**

**10. That Council adopts the following Committee Recommendations:**

**Report No. 8.3 Chincogan Charge - September 2025**

File No: I2024/1714

**Committee Recommendation 8.3.1**

**That:**

- 1. Council supports the Chincogan Charge to be held on Saturday 13 September 2025.**
- 2. Council support, in Part 1, is subject to:**
  - a) separate approvals by NSW Police and TfNSW being obtained;**
  - b) the event organiser providing council with an updated Traffic Management Plan and Traffic Guidance Scheme/s for the event if required;**

- c) development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;
  - d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and Variable Message Signage (VMS) a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
  - e) the event be notified on Council's web page and social media with the event organiser supplying Council with the relevant information;
3. The event organiser:
- a) informs the community and businesses that are directly impacted (e.g. within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
  - b) arranges for private property access and egress affected by the event;
  - c) liaises with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;
  - d) consults with emergency services and any identified issues be addressed;
  - e) holds \$20m public liability insurance cover which is valid for the event;
  - f) does not place any signage on the road related area of the Pacific Highway.

**Attachments:**

- 1 Minutes 18/02/2025 Local Traffic Committee, I2025/147 

5

## Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 18 February 2025 for determination by Council. The agenda for this meeting can be located on Council's website at:

5 [Agenda of Local Traffic Committee Meeting - Tuesday, 18 February 2025](#)

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 18 February 2025.

## Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 18 February 2025.

10 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 18 February 2025.