

Report No. 13.11 **PLANNING - Development Application 10.2017.681.1 alterations and additions to existing amenities building to create a clubhouse for Byron Bay Football Club at 35 Carlyle Street Byron Bay**

Directorate: Sustainable Environment and Economy

5 **Report Author:** Chris Larkin, Manager Sustainable Development

Noreen Scott, EA Sustainable Environment and Economy

File No: I2018/246

Theme: Ecology

10 Development and Approvals

DA No: 10.2017.681.1

Proposal: Alterations and additions to existing amenities building to create an upper floor clubhouse

Property description: Lot: 44 Section 28 DP: 758207
35 Carlyle Street BYRON BAY
Byron Recreation Grounds

Parcel No/s: 177670

Applicant: Byron Bay Football Club

Owner: Byron Shire Council

Zoning: Zone No. RE1 Public Recreation

Date received: 30 November 2017

Integrated Development: No

Public notification or exhibition:

- Level 2, advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 21 December 2017 to 10 January 2018
- Submissions: For = 0 Against = 2 Neutral/Other = 1 (Crown Lands)

Delegation to determination: Council

Issues:

- Hours of operation
- Use of site for functions, events, etc
- Traffic and parking
- Noise from patrons
- General impacts on surrounding residential development
- Disabled access

Summary:

15 The application proposes alterations to an existing amenities block to create a second storey for part of the building to be used as a clubhouse and administration building. The upper floor will include a large balcony on the eastern and northern side and access will be via an external staircase at the north west corner and an internal staircase in a central location. The ground floor layout will be modified to allow for the internal staircase. A solar array and club signage will be included on the upper floor.

20

The land is approximately 5.13 hectares in area, bounded by Cowper Street to the east, Tennyson Street to the west, Carlyle Street to the south and the Sandhills Crown land to the north. It is Community Land pursuant to the Local Government Act 1993.

25

The proposed clubhouse is within the RE1 Public Recreation Zone, and *Recreation Area* is permitted with Council consent. The clubhouse is ancillary to the use of the site for community sporting events and activities

- 5 The Statement of Environmental Effects accompanying the DA adequately addresses the LEP and DCP requirements and demonstrates that the proposed clubhouse on this site is appropriate, subject to conditions.

10 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
15 been called by the mover and seconder of all motions relating to this report.

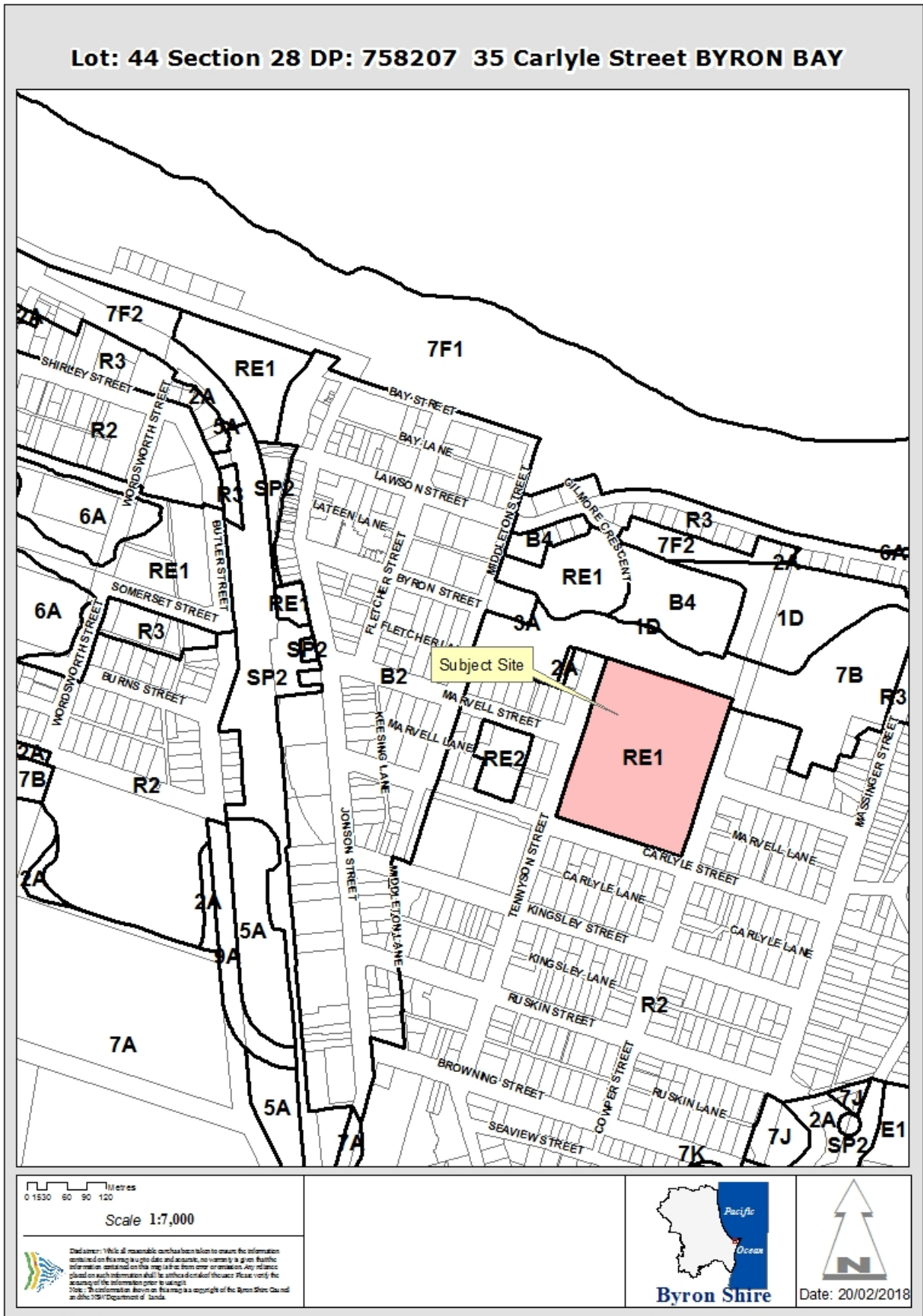
RECOMMENDATION:

That Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2017.681.1 for alterations and additions to an existing amenities building to create an upper floor clubhouse be granted consent subject to the conditions listed in Attachment 2 #E2018/16544.

Attachments:

- 20
- 1 Proposed Plans prepared by John McKay Architects , E2018/13305
 - 2 Conditions of consent , E2018/16544
 - 3 submissions received, E2018/17259

25



Assessment:

1. INTRODUCTION

5 1.1 History/Background

The Byron Recreation Grounds were established in 1921 commencing with a War Memorial and then Memorial Gates at the Tennyson Street entrance.

- 10 The site was progressively developed for sports and community uses including:
- Fields and courts for active recreation – football (soccer), cricket, rugby union, tennis, croquet, netball, basketball, athletics, school uses and personal training.
 - Playground and shelter;
 - Passive community uses;

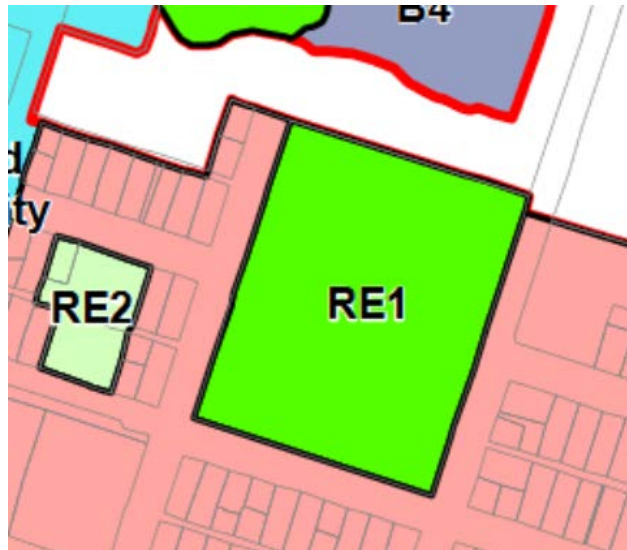
15 • Buildings such as a scout hall, community cabin (formerly guide hall), croquet club, tennis club, rugby club and football club amenities.

20 The amenities building the subject of this application is the central southern building used by the football club (Figure 1). The northern half of this building was approved in September 2004 (DA 10.2004.245.1) and constructed shortly after that.



25 Figure 1: Existing amenities block that is proposed to be altered to create a clubhouse on an upper floor

The land on which the club house is proposed is zoned RE1 Public Recreation under Byron LEP 2014 (Figure 2). The clubhouse fits with the definition of *Recreation Area* and is permitted with Council consent.



5 Figure 2: The land on which the club house is located is zoned RE1 under Byron LEP 2014

1.2 Description of the site

10 The subject land is approximately 5.13 hectare lot (Lot 444 Section 28 DP 758207) located in Byron Bay (Figure 3). It is bounded by Cowper Street to the east, Tennyson Street to the west, Carlyle Street to the south and the Sandhills Crown land to the north. It is Community Land pursuant to the Local Government Act 1993 and is owned by Council. Surrounding land is generally residential in nature with a mix of one and two storey development.

15



20 Figure 3: The land is a single lot that is a developed sports facility.

The site is mostly sports fields and courts, amenities and clubhouses and small areas of passive open space with scattered native shade trees. It includes a popular east/ west shared path. The War Memorial and Memorial Gates are located at its western edge along Tennyson Street.

Electricity and telephone are connected to the subject land and it is connected to reticulated water and sewerage. It is supplied with a Council solid waste and recycling service. The subject land does not contain any native vegetation mapped as ecologically significant. It is affected by flooding in all events from the 10 year ARI through to the probable maximum flood (PMF). Figure 4 shows the area affected in the 100 year ARI event that is the design flood event.

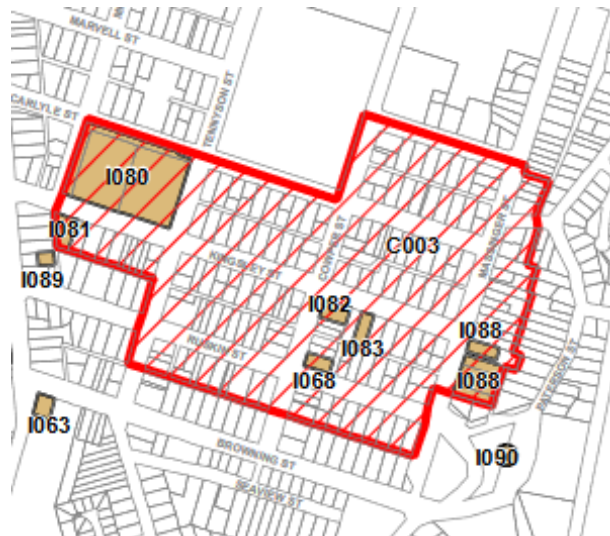


10

Figure 4: The 100 year ARI event affects that subject land.

The land is not listed as a heritage item but is immediately adjacent to a Heritage Conservation Area (HCA) Figure 5.

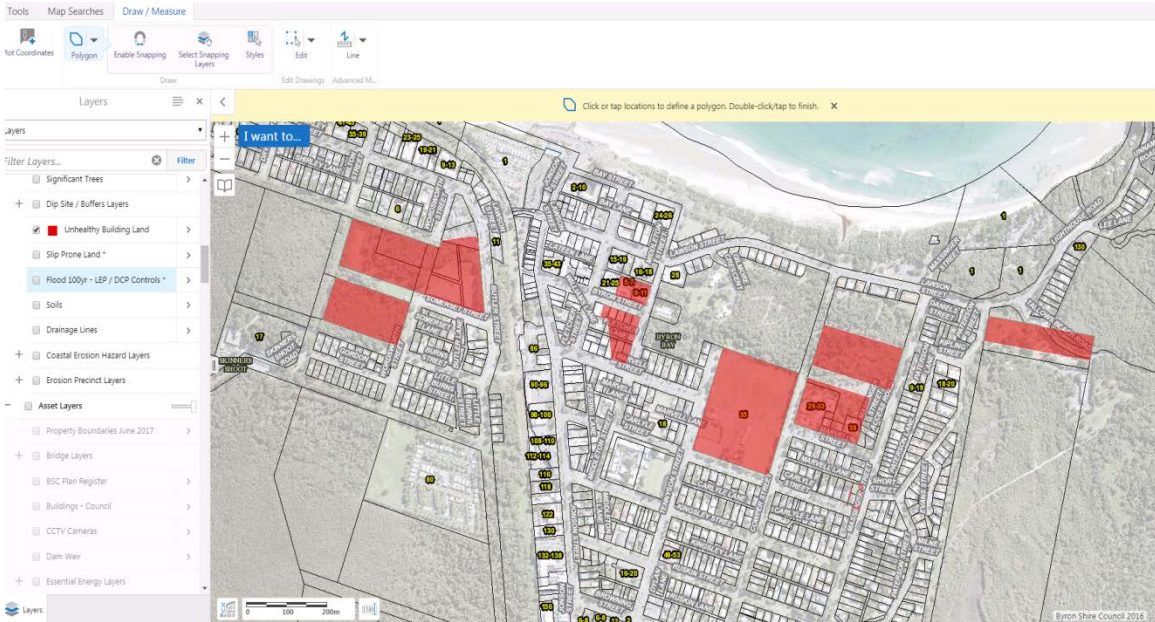
15



20

Figure 5: The land is adjacent to a Heritage Conservation Area

The entire Byron Recreation Ground is identified as “unhealthy building land” on Council’s mapping system (Figure 6). It is not listed on Council’s contaminated land register and is not identified as a site that has received mineral sands tailings. The “unhealthy building land” designation appears to be as a result of historic drainage issues as there is no clear evidence of a past use that would have caused contamination. Parts of the site have been filled over the years through its use as a sports ground. The proposed clubhouse will be on land that has been filled. Minimal ground disturbance is anticipated for the upper floor alterations.



10 Figure 6: The entire site is mapped as “unhealthy building land”.

Land immediately to the north of the subject land includes vegetation mapped as having a bushfire hazard. The buffer to this vegetation affects the northern part of the site but not the location of the proposed clubhouse.



15 Figure 7: The proposed clubhouse if not affected by bushfire hazard (red) or buffer (green)

1.3 Description of the proposed development

5 The applicant wants to keep the existing single storey amenities building mostly as is and add a second storey to part of it. The upper floor will yield about 151m² of enclosed floor space to be used for offices, toilets, storage, a small kitchen and a general purpose club room. It will also include balconies on the north and east side with a combined area of 100 m². The existing ground floor will remain as is, other than modifying the existing physio/coaches room into a foyer and stairwell to the upper floor. The upper floor will also have an access from an external stair case at the north west corner of the building. The roof of the clubhouse will include a solar array. Signage for the football club is proposed on the south facing gable end of the upper floor.

15 Although not shown on plans, the applicants have indicated that they intend to install a lift chair in the internal foyer to enable disabled persons to access the upper floor. The upper floor materials will be light weight cladding and a metal roof in earth tones to match the existing structure. The lower floor (existing) is largely brick on concrete slab.

20 Use of the new clubhouse is proposed to be dominated by football club activities such as a supporter viewing area, post-match presentation area, club offices and meetings. All training is generally completed by 9pm. Matches are completed by 9:30 pm with field lighting switched off at 10pm. Club activity will be completed at 11pm each day at the latest.

25 The Football club has stated that it intends to rent out the venue up to 6 times per year to other community groups. No external groups will be allowed to use the facility after 10 pm. Noise will need to comply with industrial noise policy. (Note: this consent does not permit the use of this site for events, etc).

The Football club would like to lease the clubhouse and take on maintenance of it as part of that lease process. (Note: this consent does not address maintenance or lease issues).

2. SUMMARY OF GOVERNMENT/EXTERNAL/INTERNAL REFERRALS

| | Summary of Issues |
|--|--|
| Environmental Health Officer | Supported conditionally. Comments included in relevant report sections. |
| Principal Engineer - Systems Planning, Utilities | No Objections. The BB FC is able to demonstrate that it can meet the exemption criteria for water and sewer fees in section 2.7 of Council's DSP as a non profit charitable organisation that makes a significant contribution to the community. There are Council pipelines in proximity to the proposed balcony supports and stairs. Compliance with Council Policy 4.20. <i>Building Over Pipelines and Other Underground Structures</i> is required. |
| Engineer | No Objections. On the basis that the club house is to be used by the existing football club members then it will not result in additional traffic or car parking. If this development is to be used for external functions, parties, wedding or events this development consent must be amended to account for car parking and traffic requirements that would be generated by such uses. |
| Building Services Supervisor | No Objections. The proposed works are able to satisfy the BCA. A platform lift for disabled persons is required to access the upper floor. This type of lift is able to satisfy the BCA. The existing building will need to be structurally adequate for future loads. Engineers to certify as part of Construction Certificate. |

| | |
|---------------------------------------|---|
| Dept of Industry (Lands and Forestry) | No Objections. However, development should not encroach on any Crown land or affect Crown land in any way. Note that the nearest Crown Land is Lot 457 DP 1087879 and comprising Reserve 755695 for Future Public Requirements notified 29 June 2007 (Sandhills); and Public Crown Road (part Cowper Street). |
|---------------------------------------|---|

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

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

State/Regional Planning Policies and instruments - Issues

10

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

| Requirement | Requirement | Proposed | Complies |
|--|--|---|----------|
| State Environmental Planning Policy 55 – Remediation of Lands | A consent authority must not consent to the carrying out of any development on land unless: (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose. | <p>The Byron Recreation Ground has been used since the 1930s as a recreation area. It is mapped as “unhealthy building land” most likely as a result of it being poorly drained. There is no clear evidence of a past use that would result in contamination.</p> <p>The proposed development is an upper storey addition and minimal ground disturbance is required.</p> <p>As the proposed development is a non-residential use of the land it is suitable for this location.</p> <p>No further investigation is warranted.</p> | Yes |
| SEPP 71 Coastal Protection (NSW Coastal Policy 1997) | Clause 7 requires Council to consider certain matters in determining a DA in the coastal zone. These are set out in Clause 8 of the SEPP. These matters cover the key issues of the NSW Coastal Policy. | <p>The subject land is set back approximately 0.5 km from the high water mark at the nearest beach and it is in the coastal zone.</p> <p>(a) the application is consistent with the aims of this Policy, (b) the development will not impact existing public access to and along the coastal foreshore for pedestrians or persons with a disability , (d) the development is suitable given its type, location and</p> | |

| | | | |
|--|--|---|--|
| | | <p>design and its relationship with the surrounding area given there is a mix of one and two storey dwelling sin the surrounds,</p> <p>(e) the development will not have any detrimental impact on the amenity of the coastal foreshore, including no overshadowing of the coastal foreshore and no significant loss of views from a public place to the coastal foreshore,</p> <p>(f) the scenic qualities of the New South Wales coast will remain unchanged by this development,</p> <p>(g) no threatened fauna (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats will be affected by this development,</p> <p>(h) no fish or marine vegetation or their habitat will be affected,</p> <p>(i) existing wildlife corridors will not be impacted as no vegetation is to be removed,</p> <p>(j) the site is not impacted by coastal processes or coastal hazards,</p> <p>(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,</p> <p>(l) the development is unlikely to impact the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</p> <p>(m) the development will not impact the water quality of coastal waterbodies,</p> <p>(n) the development is set back approximately 90 metres from the nearby HCA conservation and mature trees are located in this buffer. The heritage or historic significance of this locality is unlikely to be impacted by this development,</p> <p>(o) the development will not impact on compact towns and cities,</p> <p>(p) the cumulative impacts of</p> | |
|--|--|---|--|

| | | | |
|-----------------------------------|---|---|----------------------|
| | | the proposed development on the environment are minimal given the sporting related use of the subject land. A solar array for the roof will offset energy usage making the building more energy balanced than it currently is. Water efficient toilets and showers will be installed to reduce water usage. | |
| Building Code of Australia | Class 9b building | The proposed works are able to satisfy the BCA | Yes |
| Demolition | A Site Waste Minimisation and Management Plan is required to assist applicants in planning for sustainable waste management. | Demolition on the site will be limited to removing the roof of part of the amenities block and modifications to the ground floor to allow an internal stair well. A Site Waste Minimisation and Management Plan has not been prepared but will be required as a condition of approval. | Conditions to apply. |
| Disability Access (DDA) | Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118) | No disability access to the upper floor has been shown on the plans submitted. In response to an RFI the applicant has indicated they intend to install a lift chair or platform lift on the internal stairwell to enable disabled access to the upper floor. | Conditions to apply. |

* Non-complying issues discussed below

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014

5

Zone: Zone No. RE1 Public Recreation

Definition: Dual occupancy (detached) dwelling

| LEP Requirement | Summary of Requirement | Proposed | Complies |
|------------------------------|--|--|----------|
| Meets zone objectives | <ul style="list-style-type: none"> To enable land to be used for public open space or recreational purposes. To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes. | The development is consistent with the objectives of the RE1 zone because the proposed club house is a building ancillary to the use of the site for recreation purposes (sport). It will not unduly impact on the setting and is compatible with adjacent sporting uses. It will not impact on the natural environment. | Yes |
| Permissible use | The clubhouse fits with the definition of <i>Recreation Area</i> | Recreation Area | Yes |

BYRON SHIRE COUNCIL

| LEP Requirement | Summary of Requirement | Proposed | Complies |
|--|---|--|----------|
| | <p>and is permitted with Council consent.</p> <p><i>Recreation Area</i> means a place used for outdoor recreation that is normally open to the public, and includes:</p> <p>(a) a children's playground, or</p> <p>(b) an area used for community sporting activities, or</p> <p>(c) a public park, reserve or garden or the like, and any ancillary buildings, but does not include a <i>recreation facility (indoor)</i>, <i>recreation facility (major)</i> or <i>recreation facility (outdoor)</i>.</p> | | |
| 4.3 Height of buildings | This clause requires that buildings not exceed the height shown on the Height of Buildings map. In this case the prescribed maximum height is 9 metres. | The building will be a maximum height of 7.5 metres above ground level. | Yes |
| 5.5 Development within the coastal zone | This clause duplicates the provisions of the NSW Coastal Policy 1997. | Compliance with this clause is covered previously in the section above addressing SEPP 71. | Yes |
| 6.1 Acid Sulfate Soils | This clause requires ASS assessment if ASS are likely to be disturbed on the site. | The subject land that is classified as ASS Class 3. However the land on which the clubhouse is to be located has been filled. Minimal soil disturbance is proposed. It will be limited to post holes for veranda posts and the base of the external stairs. | Yes |
| 6.2 Earthworks | Earthworks that require consent should have minimal impact on environmental functions, neighbouring uses, cultural heritage and surrounding land. | Minimal soil disturbance is proposed. It will be limited to post holes for veranda posts and the base of the external stairs. The small amount of disturbance will not affect the environment or impact on neighbours or surrounding land. All works need to avoid Council pipelines in the vicinity of the amenities. | Yes |
| 6.3 Flood Planning | This clause requires that Council consider a range of issues for any development at or below the flood | The clubhouse is an upper level structure that will be well above flood heights for this location. | Yes |

| LEP Requirement | Summary of Requirement | Proposed | Complies |
|-------------------------------|--|--|----------|
| | planning level. The subject land is partly below the flood planning level (1:100 ARI flood event plus 0.5 m freeboard). | The existing lower level amenities building was not built to be entirely above the flood planning level so the upper floor will provide a flood refuge for sporting equipment that may be stored on the site. | |
| 6.6 Essential services | The development should have adequate <ul style="list-style-type: none"> • water • sewer • electricity • stormwater • vehicle access | The existing building is connected to reticulated water supply, sewerage and electricity and this will also service the upper floor club house. The site also has controlled vehicle access. Stormwater is a problem on this flat site but has been addressed in past approvals. The proposed alteration to create a club house will not significantly exacerbate stormwater issues. | Yes |

** Non-complying issues discussed below*

Byron Local Environmental Plan 2014 - Issues

There are no issues of non-compliance with LEP 2014 that raise any concerns.

5

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

There are no issues that relate to draft LEPs that have been placed on public exhibition.

10

3.3 DEVELOPMENT CONTROL PLANS

Development Control Plan 2014

15 Chapter B3 – Services

The purpose of this Chapter is to identify the minimum requirements necessary to adequately service development for water, sewer, stormwater management, on-site effluent disposal and other necessary infrastructure. The site has reticulated town water supply, sewerage, reticulated power and communications.

20

The site is flat and has a history of poor drainage. However, past filling and stormwater drainage that links to the existing amenities building can be use by the clubhouse on the same footprint. The application complies with the requirements in this chapter.

25

Council records show that a sewer pipeline and recycled water pipeline are both located in proximity to the proposed club house. It is important that buildings are not constructed over these pipelines and that posts for the proposed verandah are not too close to pipelines or cause damage to them.

Chapter B4 – Traffic Planning, Vehicle Parking Circulation and Access

The purpose of this Chapter is to provide guidelines, controls and standards for traffic planning, vehicle access, circulation and parking for developments. This application provides no dedicated parking for the clubhouse and relies on the surrounding street parking. The Byron Recreation Ground does not have any dedicated parking area and has always relied on street parking. A Recreation Area is not listed as a specific land use in the parking schedule in this chapter.

Most clubhouse users will park on the street and walk a short distance into the ground to use the club house for games or training, etc. Delivery vehicles and construction vehicles can access the site via locked gates. Pedestrians and cyclists can easily access the centrally located site. The clubhouse is a relatively minor expansion of usable floor space and is intended to be used by the club members that already use the site anyway. It is therefore not expected to result in an increase in traffic and parking demand. If its use is confined to the definition of a Recreation Area then it does not need to supply additional parking. It should be noted that Recreation Area does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor). This consent does not cover a function centre which means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility. It also does not include a food and drink premises.

This application complies with the parking requirements of the DCP.

Chapter B5 – Providing for Cycling

This Chapter aims to retain, increase and improve cycling facilities; consistently review cyclist needs; and provide a consistent standard of facilities for cyclists within the area. The clubhouse is a relatively minor expansion of usable floor space and is intended to be used by the club members that already use the site anyway. The site already has a cycle rack close to the proposed clubhouse site. A Recreation Area is not listed as a specific land use in the bicycle parking schedule in Chapter B4.

This application complies with the cycling requirements of the DCP.

Chapter B6 – Buffers and Minimising Land Use Conflicts

The purpose of this Chapter is to provide advice and guidance on planning for land use compatibility, avoiding land use conflict and the use of buffers. The application is located on RE1 zoned land that is surrounded on three sides by R2 Low Density Residential land. The site has been use for recreation purposes since the 1930s and the clubhouse is consistent with that long term use.

The nearest dwellings in Cowper and Carlyle Streets are approximately 120 metres from the proposed club house. However, sound from the club house upper floor would travel this distance easily, particularly at night when background noise subsides. Management of noise (and lights) at the site needs to be a focus of the Football Club if the impacts on residential neighbours are to be kept reasonable.

Operating hours for the club house should be restricted to preserve neighbourhood amenity as follows: Monday to Saturday - 9.30pm and Sunday – 6.30pm.

The subject land does not contain vegetation classified as a bushfire hazard and the buffer to vegetation on the adjacent Sandhills site does not affect the proposed clubhouse site. A detailed bushfire hazard assessment is not required.

Chapter B8 – Waste Minimisation and Management

5 Council requires a Site Waste Minimisation and Management Plan for this development. No plan has been provided with the statement of environmental effects. It should be provided as a condition of approval prior to the issue of a construction certificate.

Chapter B9 – Landscaping

10 This Chapter provides advice, guidelines and controls relating to design, construction and maintenance of landscape and vegetation associated with all developments on land to which Byron LEP 2014 applies. In this case a landscape plan was approved for the original ground floor amenities building. This upper floor extension does not warrant any changes to that plan.

Chapter B10 – Signage

15 The purpose of this Chapter is to provide guidelines and controls for signage consistent with the objectives and provisions of Byron Local Environmental Plan 2014 and *State Environmental Planning Policy 64 – Advertising and Signage* (SEPP).

20 The development plans show a wall sign on the south facing gable end of the upper floor structure depicting the football club logo. This is effectively a building identification sign. No dimensions or details are provided. This sign faces the HCA and it is reasonable that it be kept to a modest size (2.5 m² is suggested by the DCP) and not be illuminated.

Chapter B11 - Planning For Crime Prevention

25 This Chapter aims to ensure that all development plays a role in enhancing the safety of our communities; to reduce the vulnerability of our community to crime through good urban design; and to
30 require developers to work with the community and the NSW Police Force to create a safer environment and be active in practical crime prevention.

35 The DCP does not identify this development as one that must be accompanied by a formal Crime Risk Assessment prepared in accordance with NSW Police Force Safer by Design guidelines. The SEE does not address the CPTED principles as required by the DCP. The four principles that should have been addressed are:

40 Surveillance – The upper floor club house can be easily viewed from all directions including three public streets and the various playing fields around it. It is easily viewed from the busy main shared path that runs east /west across the recreation grounds. When the club is being used it will be possible to view most of the Recreation Grounds from the balcony and this will increase passive surveillance of the whole sports facility.

45 Access control - This aspect can be improved. The access to the upper floor stairs needs to be gated (as the canteen etc is now) to ensure that it does not become a hiding place after dark. Other than that it is an upper floor addition and access is only by internal stairs or the external stairs.

50 Territorial reinforcement- The clubhouse will be perceived as “belonging” to the Byron Bay FC and this creates a sense of territory that promotes a sense of ownership and pride in the football players that use the space. This is not to say that Council is giving exclusive use rights to the football club. That matter is not part of this development application.

Space management - Strategies relevant to this site include activity coordination (football club events), site cleanliness, rapid repair of vandalism and graffiti (use of murals) , the replacement of burned out security lighting and the removal or refurbishment of decayed physical elements.

- 5 The Byron Recreation Ground has been the subject of complaints relating to poor behaviour, homeless camping, backpackers camping in cars on the streets, littering and crowd behaviour at sporting events. These are ongoing site management matters that will not be exacerbated by this development.

10 **Chapter B13 – Access and Mobility**

15 The Commonwealth *Disability Discrimination Act 1992* (DDA) is the primary Australian statute that aims to eliminate discrimination on the grounds of disability. Section 23 of the DDA makes it unlawful to discriminate against people with a disability or their associates in relation to access to and use of premises that the public enter or use.

20 The site is accessed by a concrete path from three directions. This includes access to ground floor toilets and changes rooms. The upper floor will be accessible via an internal chair lift incorporated into the internal stair well. This chair lift is not shown on plans and needs to be included as a condition of approval. This access must be provided to and within the facilities in accordance with the provisions of the BCA and AS1428.1 – Design for Access and Mobility –General Requirements for Access – New Buildings.

25 Parking is not being provided however it would be appropriate that a space along Carlyle Street be dedicated as a disabled parking space when this area of parking is formalised.

Chapter C1 – Non Indigenous Heritage

30 The purpose of this Chapter is to set out controls and guidelines that complement Byron LEP 2014 in relation to development to or in the vicinity of heritage items and Heritage Conservation Areas. Any development to or in the vicinity of heritage items or Heritage Conservation Areas will need to be in harmony with the surroundings, both natural and constructed, and enhance the physical context valued by the community and by the Shire's increasing number of visitors.

35 In this case the club house is a simple design that has a neutral impact on the heritage character of the adjacent HCA. It does not compromise the significance and character of the components of the HCA. The club house is set well back from the HCA (about 90 metres) and there are substantive shade trees in the recreation grounds that filter views to the club house from many angles. Signage on the club house building will not impose on the HCA.

40 **Chapter C2 – Areas Affected by Flood**

45 The purpose of this chapter is to identify development requirements for flood liable lands that are appropriate for the degree of flood hazard on that land.

50 The land on which the club house is proposed is flood affected. The floor level proposed for the upper level is well above the 3.9 metre AHD that represent the design flood in this location. The upper floor clubhouse is not flood affected. It will provide an opportunity to store gear upstairs temporarily if a flood is going to inundate the ground floor of the building. This flood free storage area may also be useful for other users of the Byron Recreation Ground in times of flood.

Flood isolation of the club house is likely to be short duration given that the area is at the edge of the flood affected land and is caused by heavy local rainfall rather than overbank flow from a river with a large catchment. Flood velocity is not an issue in this situation.

Chapter C3 - Visually Prominent Sites, Visually Prominent Development and View Sharing

5 Council is committed to ensuring that the Shire's landscape character and visual quality are maintained and where possible enhanced in the development process. The visual quality of an area can be strongly influenced and affected by the treatment of visually prominent sites and locations. These include land in the coastal zone, ridgetops and nearby lands, escarpments, environmentally sensitive sites on sloping land and any site where development has the potential to degrade visual amenity.

10 The subject land is in the coastal zone and therefore it meets the definition of a visually prominent site and this chapter applies.

A visual impact statement was not supplied by the applicant and is not warranted in this case.

15 The site is not significant when viewed from public places such as the beach or Cape Byron. The proposed clubhouse will not disrupt or impact on neighbours' views or prominent views.

Other Development Control Plan/s - Issues

20 The current plan of management for the subject land is the Byron Recreation Ground Plan of Management , 2002. The site of the clubhouse is classified as Sports Ground under this plan. Land in this category is used or proposed to be used primarily for active recreation involving organised sports or the playing of outdoor games. The amenities and proposed clubhouse are ancillary to the playing of football on this site. This is consistent with the Plan of Management (PoM).

25 Many of the actions of this plan of management have been implemented since 2002. Construction of the ground floor amenities block above which the clubhouse is to be built was an action of this PoM. It could be argued that this clubhouse is an extension of the amenities block that embellished the amenities by providing more toilets and showers as well as a covered spectator area (the balconies) and a general meeting room and offices. The PoM does clearly indicate that all new structures should be shared use facilities. This aspect needs to be negotiated between Council and the Byron Bay FC.

35 Three versions of a draft PoM to replace the 2002 version have been prepared for Byron Recreation Grounds over the last few years and none have been finally adopted.

On 1st February 2018 Council resolved in relation to the Byron Recreation Grounds to:

40 *Confirm that the draft Plan of Management will facilitate only those alternative community or commercial uses that:*

- a) *are compatible both with the categorisation of the facility and the current sporting uses at the Grounds; and*
- b) *that do not interfere with the scheduled use of the sporting fields nor degrade fields or facilities utilised by sporting users.*

45 The proposed club house is compatible with the current categorisation of the site and the various sporting uses at the site. Other than during construction it will not interfere with the scheduled use of the fields and facilities. It will not degrade the fields or facilities.

50 A further revised draft PoM will be prepared and exhibited in due course. It is difficult to give any weight to previous drafts until they are finalised and adopted.

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

Subject to consent conditions the proposed upper floor clubhouse is not likely to result in any negative impacts on the natural and built environment nor is it likely to negatively impact socially or economically on the locale.

3.5 The suitability of the site for the development

The site has an adequate size and shape to accommodate the development. The existing amenities block is a suitable location being central to the recreation grounds and adjacent to the football fields. No native vegetation needs to be removed to enable the development. The upper floor is not affected by hazards and will not impact significantly on the nearby HCA. It is suitable for a club house development as proposed.

3.6 Submissions made in accordance with this Act or the regulations

The application was lodged with letters of support from the Byron Bay Rugby Club, Byron Bay Cricket Club, Byron Bay Netball, 1st Byron Bay Scout Group, RSL Byron Bay Sub Branch, Byron Bay Public School, Byron Community Primary School, Byron Bay High School, and St Finbarr's Primary School. Although they are not technically submissions they do show that other site users support the development.

There were two submissions made on the development application from residents of Carlyle and Cowper streets. The submissions both object to the development and make the following points:

1. *The DA intends to have six functions a year and has a stated capacity of 166 persons seated and 332 standing. Object to this being a new function centre*

Planning Response: This application is for a recreation area with the clubhouse being ancillary to the sporting use of the site by the football club (and potentially other sporting users). It is not being granted consent for a function centre. (A *function centre* means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres). It is not being granted consent for a *food and drink premises* either.

2. *Traffic and parking are major issues with this site already and with no parking proposed for this DA it will only get worse.*

Planning Response: The application is for embellishment of facilities primarily for the Byron Bay FC that already use the site on a regular basis. If this is the case then there will not be additional parking demand generated. Although street parking is annoying for neighbours there is minimal opportunity for off street parking in this location (without reducing sports facilities) and sports related use has taken place on this site for many decades based on street parking. The site is not being given consent to be used as a function centre or a food and drink premises.

3. *A two storey building is not in keeping with surrounding buildings.*

Planning Response: The other buildings on the recreation grounds are all single storey but surrounding residential streets have two storey developments. The proposed building is below the 9 metre height limit and will not impact on views or cause problematic overshadowing to other land. It is consistent with the height of nearby trees.

4. *Behaviour of site users and impact of noise, litter etc on surrounding residential land*

Planning Response: All sporting venues in residential areas experience some problems with user behaviour from time to time. This application is unlikely to exacerbate problems with this site. It is up to the football club and other sports users to control their own members. If laws are broken then it is a matter for the police. Council will need to enforce the conditions of this or any other approvals to ensure that the site is not used other than in accord with its consents. Noise control is a matter that Council in conjunction with the Police can take action about. Compliance with NSW noise laws will be expected at this site and enforced by Council. Imposition of hours of operation on the clubhouse may assist in reducing noise impacts. Littering is a matter of concern but requires individuals to be "caught in the act".

5. *Building safety and crime prevention*

Planning Response: It is agreed that the upper floor balcony needs to be gated to ensure that it is not a late night crime venue or a place to party after hours. This can be imposed as a condition of consent.

6. *Hours of operation*

Planning Response: It is appropriate for a clubhouse in a residential neighbourhood to have restricted operating hours to preserve neighbourhood amenity as follows: Monday to Saturday - 9.30pm and Sunday – 6.30pm. This can be a condition of approval.

7. *Alcohol and security*

Planning Response: Alcohol licensing is a matter for the NSW Liquor and Gaming. This consent is not for a Registered Club, Hotel, Pub, Restaurant or other use that typically has a liquor licence. It is not a food and drink premises. Any application for a temporary liquor licence would be assessed by authorities on merit and breaches of licensing laws are a serious offence. Security is a good idea at larger sporting events if alcohol is served but this is a decision for the club to make based on its own risk assessment.

3.7 Public interest

This development does raise significant issues of public interest but on balance the proposed clubhouse is an appropriate use of the site and if managed properly will not compromise the wider public interest in the site.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

The proposed upper floor club house will be connected to reticulated water or sewerage. The ground floor is already connected. No levies apply because the Byron Bay FC is a not for profit sporting organisation that contributes to the Byron Shire community. This development has met criteria listed in Section 2.7 of Council's Developer Servicing Plan for water supply and sewerage and is therefore exempt from water and sewerage developer contributions.

4.2 Section 94 Contributions

The works are an embellishment of an existing recreation area, do not involve dwellings or accommodation of any type and no contributions will be required.

6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

Provide Disclosure Statement register details here: Nil

7. CONCLUSION

Council recognises the role of local sporting clubs in arranging organised sport for the Byron Shire community. Council supports uses that are compatible both with the categorisation of the facility and the current sporting uses at the Byron Recreation Grounds; and that do not interfere with the scheduled use of the sporting fields nor degrade fields or facilities utilised by sporting users.

It is also important that use of the clubhouse is restricted to sports related matters and does not interfere with the amenity of the neighbourhood. This consent does not include approval for a *function centre* which means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres. This consent does not include approval for a *food and drink premises* of any type, such as a restaurant or café. Appropriate conditions have been recommended in relation to hours of operation.

This development meets the Council's requirements. Conditional approval is appropriate.