

Report No. 1. Waiving of s64 Charges - Mullumbimby Rugby League Club

Director: Infrastructure Services
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File No: #E2014/70916

Theme: Community Infrastructure, Section 64 Water and Sewer Developer Servicing Plans

Summary: Council has advised that s64 contributions are due to be paid by the Mullumbimby Rugby League Football Club Limited (MRLFC) for charges levied under the Water Management Act applicable as a condition of consent for the subject development application 10.2013.310.1.

The DA proposes the construction of a detached amenities block for the approved primitive camping ground at the Mullumbimby Leagues Club football grounds.

The Mullumbimby Leagues Club has requested that Council waive this charge under Clause 2.1.5 of the Water Supply and Sewerage Developer Servicing Plans:

RECOMMENDATION:

That Council not waive the applicable s64 contributions due to be paid by the Mullumbimby Rugby League Club for DA 10.2013.310.1.

Report

Council has advised that \$217,989.13 is due to be paid by the Mullumbimby Rugby League Football Club Limited (MRLFC) for charges levied under the Water Management Act applicable as a condition of consent for the subject development application 10.2013.310.1.

The DA proposes the construction of a detached amenities block for the approved primitive camping ground at the Mullumbimby Leagues Club football grounds.

The Mullumbimby Leagues Club has requested that Council waive this charge under Clause 2.1.5 of the Water Supply and Sewerage Developer Servicing Plans:

“Byron Shire Council may waive developer contributions where the proponent demonstrates to Council’s satisfaction that it is a non-profit and charitable organisation, which by virtue of carrying out such development, is considered to be making a significant and positive contribution to the community and is unable to recover the charge from the end user.”

The basis to the request from MRLFC for the waiving of the contribution is that it makes a significant and positive contribution to the wider community by providing sporting and recreational facilities to:

- Mullumbimby Giants three senior teams (70-80 players)
- Mullumbimby Junior Giants (170 players)
- other codes, such as a six-a-side soccer competition (200 players), a touch football competition (200 players), and an Oztag competition (150 players)
- senior and junior football players also train on Tuesdays and Thursdays
- schools from around the district conduct sporting events and programs at the grounds throughout the year, such as touch football, rugby league and rugby union gala days
- community groups also use the facilities for health promotion and awareness activities, such as Relay for life

Background

Currently the short term campers are using the football club change rooms and toilets as per conditions issued under DA10.2004.422.1 for 18 primitive camping sites. These facilities are also used by the footballers. It is desirable to provide the campers with separate amenities, closer to the camping ground and also to separate the children using the existing amenities from the campers in order to eliminate a perceived safety issue.

Existing Entitlements

The existing approved camping grounds 88.2007.1.1 (DM942287) does not have any entitlement to water or sewer equivalent tenements. The Leagues Club has provided toilets and showers, but never paid s64 contributions for the additional load placed on the system under DA 10.2004.422.1 for 18 primitive camping sites.

What are primitive camping grounds - Primitive camping grounds (PCGs) are one type of camping ground covered by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. PCGs are lower key than conventional camping grounds. The new Regulation does not require PCGs to have, for example, sealed roads, hot water or laundries.

From the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 - REG 132 Primitive camping grounds (2), the following conditions apply to a primitive camping ground:

- (e) the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,

Condition 15 of the original consent DA10.2004.422.1 for 18 sites states:

"Access to amenities - all amenities (toilets, showers, cooking area, etc) are to be maintained to a clean and healthy condition, and are to be available for the use of patrons at all times."

Upon checking the 10.2004.422.1 - there is no record showing that the DA was referred to the Water & Sewer Department for assessment and no representative was included on the assessment panel that recommended approval conditions.

Proposed Development:

The construction of an additional amenities building is to remove the conflict of campers using shower / toilet facilities at the same time as sport field patrons, using ET Policy 13/005 the assessment is as follows:

Ref	CATEGORY	STANDARD UNIT	Number proposed	WATER RATE ET	SEWER RATE ET	WATER ET	SEWER ET
12.8	Public Amenities Block (per shower)	Shower	9	0.40	0.63	3.6	5.67
12.9	Public Amenities Block (per WC)	WC	8	0.40	0.63	3.2	5.04
TOTAL						6.8	10.71

Note the assessment for 18 camping sites is:

Ref	CATEGORY	STANDARD UNIT	Number existing	WATER RATE ET	SEWER RATE ET	WATER ET	SEWER ET
6.1	Camping Site	Site	18	0.50	0.63	9.0	11.34

The Water Management (General) Regulation 2011 Section 224 stipulates the development that may be subject to section 306 Water Management Act requirements. The following kinds of development are prescribed as development to which that section applies:

- (a) the erection, enlargement or extension of a building or the placing or relocating of a building on land,
- (b) the subdivision of land,
- (c) the change of use of land or of any building situated on the land.

Clearly, the Club is proposing to erect an additional building on the land which falls into sub-section (a) of the Regulations and, hence, is subject to Section 306 requirements.

Comment

Byron Rugby League Club had original approval from 1982 for their primitive camp grounds and also paid the applicable s64 in addition to the club.

In considering the application to waive the s64 charges, Council needs to assess Mullumbimby Leagues Club not-for-profit / charitable status and the contribution it makes to the community – what benefit does Council gain from the Club's operation?

The Australian Charities and Non-for-profits Commission (<http://www.acnc.gov.au/>) currently lists twenty-three Mullumbimby organisations on its register, the Mullumbimby Leagues Club is not one of them.

Unlike Council, Mullumbimby Leagues Club Limited is not restricted in raising its fees to cover operational costs. It is understood that Mullumbimby Leagues Club Limited is a registered business, including a restaurant, a bar, a gymnasium, a social golf course and a camping ground. The point is that the Leagues Club is established to benefit the members, not the community at large.

Recommendation

In reviewing the development from a hydraulic loading perspective, similar existing development at the Byron Rugby Leagues Club, it is recommended not to waive the applicable s64 contributions. However, Council needs to assess Mullumbimby Leagues Club current and continuing benefit to the local community.

Financial Implications

Council has issued a Section 306 requirement under the Water Management Act 2000 that \$217,989.13 is due to be paid by the Mullumbimby Rugby League Football Club Limited (MRLFC) for charges levied under the Water Management Act 2000, applicable as a condition of consent for the subject development application 10.2013.310.1.

Should Council waive this charge, future developers under a new Developer Servicing Plan will be subsidising the new amenities facility for the Leagues Club.

Statutory and Policy Compliance Implications

The application of s64 contributions upon DA10.2013.310.1 has been consistent the Water Management Act 2000, Water Management (General) Regulation 2011, Council's Water Supply and Sewerage Developer Servicing Plan's and also the Equivalent Tenement Policy 13/005.