

From: [Dimitri Young](#)
To: [council](#)
Cc: [Daniels, Steve](#); [Mason, Gene](#); [Caras, Alex](#); [Rachel Lonie](#)
Subject: CM: BCD Response - Options and revised Attachment 2 - McAuleys Lane Myocum Planning Proposal
Date: Thursday, 6 October 2022 4:08:40 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
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[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image012.png](#)
[Revised Attachment 2 - BCD NE Branch Approach to Biodiversity Assessment for Planning Proposals - October 2022.pdf](#)

Attention: Mr Steve Daniels

Dear Mr Daniels

Thank you for your e-mail requesting further advice from the Biodiversity and Conservation Division (BCD) of the Department of Planning and Environment on this matter.

As discussed with you by the BCD's Ms Rachel Lonie, our preference is for an arrangement that would secure a conservation outcome in the planning area as part of the planning proposal, such as a C2 zone as set out in Options 1 and 3 of your e-mail below, noting that Option 3 would be the best outcome in our view. However, we acknowledge that the E Zone Review Recommendations Report applies to the Byron Shire. Applying a C2 zone to the land identified in Figure 6 in the BCD letter dated 26 September 2022 would require the landholder's agreement as the land is currently used for agricultural purposes. We understand the landholder may be agreeable to this and suggest that the discussion between the landholder and the Byron Shire Council includes your verbal advice that the Department's Northern Region would not require re-exhibition and the consequent delay in finalising the planning proposal if further C2 zoned land was included.

If the council is unable to achieve Option 3, then Option 2 in your e-mail below to enable a community title (CT) development for the entire planning area would be supported by the BCD. The benefits of this arrangement are that the 'community' lot, including areas identified in Figure 6 of our letter, would be better managed for conservation in one ownership under a CT agreement and the council would be able to better regulate the conditions for the rehabilitation and management of this land. While this does not secure a conservation outcome at the planning proposal stage, the council would assess and determine the most appropriate CT configuration at the Development Application (DA) subdivision stage in accordance with s4.2B of the Byron Local Environmental Plan 2014 and Development Control Plan (DCP) controls. We would support this option if a Minimum Lot Size (MLS) of 40ha was retained for the entire planning area given your advice that this would ensure the area could not be subdivided other than under a CT arrangement. We also note this will trigger a Biodiversity Development Assessment Report and the BCD is likely to be requested by the council for advice at the DA subdivision stage.

Rezoning the land to R2 as proposed, but with a 40ha MLS and amendment of the Multiple Occupancy and CT map to apply to the entire planning area with a maximum number of lots plus a community title lot, would be preferable to the BCD than the current RU2 zone. This is because vegetation clearing would be regulated by the provisions in Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 and the council's DCP.

The BCD supports the use of planning agreements to secure conservation outcomes at the planning proposal stage, however we note your verbal advice that a planning agreement between the landholder and the council would trigger re-exhibition and is unlikely to be agreed to by the landholder at this stage of the process.

We appreciate your comments on our Attachment 2 and have revised this document (attached).

Please replace the earlier version we sent you with this revised version.

If you would like to discuss this matter further, then please contact me via the details below.

Yours sincerely

Dimitri Young

Senior Team Leader Planning, North East Branch

Biodiversity and Conservation Division

Department of Planning and Environment

T (02) 6659 8272 **E** dimitri.young@environment.nsw.gov.au

dpie.nsw.gov.au

Locked Bag 914

(Level 8, 24 Moonee St)

Coffs Harbour NSW 2450

Working days Monday to Friday, 09:00am - 05:00pm



I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time. Please consider the environment before printing this email.

From: Daniels, Steve <sdaniels@byron.nsw.gov.au>

Sent: Wednesday, October 5, 2022 1:06:21 PM

To: Rachel Lonie <Rachel.Lonie@environment.nsw.gov.au>

Cc: Mason, Gene <emason@byron.nsw.gov.au>; Caras, Alex <acaras@byron.nsw.gov.au>

Subject: RE: Attachment 2 for McAuleys Lane Myocum Planning Proposal

Hi Rachel,

Following discussions with the developer and Craig Diss, we see 3 options to proceed, Craig is comfortable with all 3 options, however the bigger issue is what BCD is willing to agree to.

All options below that involve the application of C2 zones will require landowner agreement. If the landowner does not agree and wants further investigation, then they will need to undertake those studies. This will precipitate a new Gateway process as the clock is likely to run out on the current gateway if further work is required. This is a decision that the landowner will need to weigh.

Option 1)

Apply C2 zones over areas B and C identified in Fig 6 with agreement from the landowner.

(NOTE: Recommendation 1 as it relates to area A is already achievable as the whole area is identified for community title, the extent of the community lot will be determined with the subdivision DA)

Given that the BCD walkover and mapped areas are the best information we have available at the current time with relation to the identified TEC's, we would request the landowner to agree to the proposed mapping in absence of a more detailed analysis that would justify a reduction or otherwise of areas B and C.

Whether or not the C2 remains in a single lot or otherwise would be subject to further consideration at DA stage, and I expect further advice would be sought from BCD at that time.

Craig Diss is comfortable with this outcome and does not consider a minimum lot size amendment

is necessary.

Option 2)

Community title is applied to the entire site. C2 zones are not applied, however the TEC's and other sensitive areas would be included in the community lot. I think all agree that having these areas in the community lot delivers a better long term management outcome. Craig has advised that he is comfortable with this outcome in absence of C2 zones provided that BCD is also comfortable with this approach. This would not trigger a re-exhibition.

Option 3)

Community title for the entire site, C2 zones applied in areas B and C, and those areas sitting in the community lot at subdivision stage. If the landowner does not agree to the C2 zones or disputes the boundaries, it will require further justification and a new Gateway/exhibition due to time constraints.

Can you please provide comment, unfortunately I have only until the end of the week to prepare my report and recommendations to Council – apologies for the tight turnaround.

Happy to have a phone hookup.

Kind Regards

Steve Daniels | Planner | BYRON SHIRE COUNCIL

P: +61 2 6626 7315 | E: sdaniels@byron.nsw.gov.au
Bundjalung Country, PO Box 219, Mullumbimby NSW 2482 |
www.byron.nsw.gov.au
Find us on Facebook www.facebook.com/byronshire.council

Byron Shire Council acknowledges the Traditional Owners of this land, the Arakwal people, the Minjungbal people and the Widjabul people of the Bundjalung Nation, and pays our respects to Elders past and present.

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From: Rachel Lonie <Rachel.Lonie@environment.nsw.gov.au>
Sent: Tuesday, 27 September 2022 12:01 PM
To: Daniels, Steve <sdaniels@byron.nsw.gov.au>
Cc: Tarrant, Sam <starrant@byron.nsw.gov.au>; Mason, Gene <emason@byron.nsw.gov.au>
Subject: FW: Attachment 2 for McAuleys Lane Myocum Planning Proposal

Hi Steve,
Further to this here is the cover letter and Attachment 1.
Cheers Rachel

From: Rachel Lonie
Sent: Tuesday, 27 September 2022 10:13 AM
To: sdaniels@byron.nsw.gov.au
Cc: Don Owner <Don.Owner@environment.nsw.gov.au>; starrant@byron.nsw.gov.au; Mason, Gene <emason@byron.nsw.gov.au>
Subject: Attachment 2 for McAuleys Lane Myocum Planning Proposal

Hello Steve,
Don uploaded the response letter on the above matter to the portal yesterday but I forgot to send him Attachment 2. Apologies for that.
The planning portal does not accept any changes so I am sending it directly to you.
Please call if there are any aspects of our advice you would like to discuss or require clarification on.

Kind regards,

Rachel Lonie

Senior Conservation Planning Officer
Biodiversity and Conservation Division

Department of Planning and Environment

T 02 6650 7130 E rachel.lonie@environment.nsw.gov.au

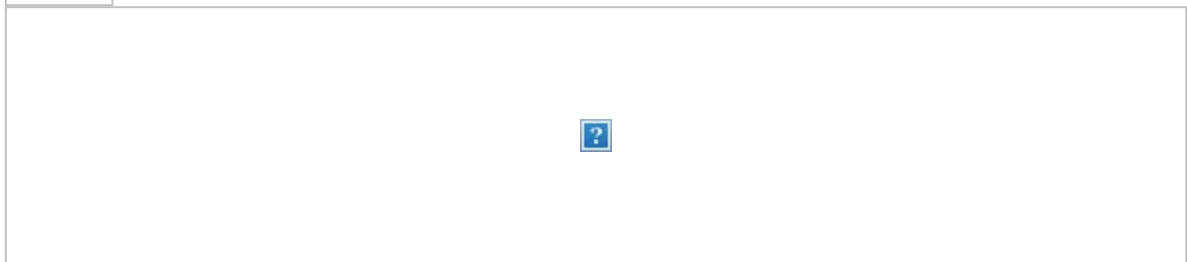
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Level 8, 24 Moonee Street

Postal address: Locked Bag 914

Coffs Harbour NSW 2450

Working days Monday to Thursday, 09:00am - 17:00pm



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