Report No. 13.3 PLANNING - Planning Proposal for the former Byron Hospital Site 26.2019.7.1

**Directorate:** Sustainable Environment and Economy

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**File No:** I2019/1444

Summary:

In May 2019, Council resolved to acquire the Byron Bay Hospital Site from the NSW State Government and classify it as Operational land. The purchase came following a lengthy process of consultation with the broader Byron community and negotiations with the State Government.

A community-led steering committee, supported by Council, put together a proposal to adaptively reuse the hospital site for a range of community purposes, including education, community facilities and administrative offices for arts, community and welfare organisations. As work on the physical building progresses, it is now appropriate to consider potential planning pathways to achieve these intended outcomes.

The site is zoned R2 Low Density Residential under Byron Local Environmental Plan 2014, which restricts the permissibility of some of the desired uses.

Negotiations are advancing with tertiary education institutions to establish an education precinct on the site Tertiary education is permissible with consent on this property subject to *State Environmental Planning Policy (Education establishments and Child Care Facilities) 2017*, despite the R2 zoning.

However, in order to achieve the remaining nominated uses, including the provision of office space, a commercial kitchen and a café, a planning proposal is required to amend the Byron Local Environmental Plan 2014.

The drafted planning proposal (Attachment 1) contains provisions intended to be inserted into Byron LEP *Schedule 1 Additional Permitted Uses*. This would retain the current R2 zoning of the site, but allow office premises, restaurants/cafes and light industry (commercial kitchen) to be permitted with development consent.

The use of Schedule 1 is preferred to a change to the zoning of the site, as that would require consideration of the wider precinct, involving a greater ranger of studies and assessment.

It is now appropriate to forward the planning proposal to the Department of Planning, Industry and Environment to request a gateway determination in order to progress the planning proposal.

NOTE TO COUNCILLORS:

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

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| RECOMMENDATION: **1. That Council forward the planning proposal for the former Byron Hospital Site (Attachment 1 #E2019/78939) to the Department of Planning, Industry and Environment for Gateway determination.****2. That the planning proposal be put on public exhibition in accordance with the Gateway determination, and that Council receive a further report at the end of the exhibition period detailing submissions made.**  |

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**Attach the Special Disclosure of Pecuniary Interest Annexure for matters relating to environmental planning instruments #E2012/2815.**

**Attachments:**

1 26.2019.7.1 Draft Planning Proposal Byron Hospital Site version #1 - PDF, E2019/78939

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REPORT

**Background**

April 2016 In response to enquiries from members of the public about the future of the former Byron Hospital property, Local Health District advised that it is normal practice for Health Administration Corporation to work with Government Property NSW in the disposal of surplus properties at the appropriate time.

2017 Community group hold community meetings to discuss future of the site

Dec 2017 Council resolved (Res **17-692**):

*That Council write to NSW Health and Health Minister to:*

*1.   outline Council’s interest in working alongside the Byron Bay community to provide a community focused use of the old Byron Bay hospital site.*

*2. request NSW Health to defer any decision on any potential sale of the site for six months, in order for Council and a partnership with the community to form and develop a proposal to either purchase the site or pursue a long term lease arrangement.*

Jan 2018 State Government announces a 6-month moratorium on sale of the site to enable community group to prepare and submit their proposal to NSW Government.

June 2018 Byron Shire Council, on behalf of the community (Res **18-427**), submitted a proposal to the Department of Premier and Cabinet to return the Byron hospital to the local community (Attachment 1) to provide “*vital and currently lacking welfare, social, cultural and educational services*”.

Feb 2019 Council received an update on the hospital project including governance models to be investigated (Res **19-077**)

May 2019 Council resolved to purchase the site from the NSW Health Administration Corporation (Res **19-223**) and classify it as operational land

July 2019 Council notes the intention of the steering committee to form a not-for-profit incorporated association to manage the project and nominates the incorporated association formed by said group to be the direct lessee for the site. (Res **19-286**)

**Future Uses of the Site**

The steering committee, supported by Council, put together a proposal to adaptively reuse the hospital site for a range of community purposes, including education, community facilities and administrative offices for arts, community and welfare organisations. There is also a desire to adaptively reuse the previous hospital kitchen as a commercial kitchen available for hire.

It is anticipated that the existing café/ kiosk would be retained as a café, to service students and other site users.

As work on the physical building progresses, it is now appropriate to consider potential planning pathways to achieve these intended outcomes.

The site is zoned R2 Low Density Residential under Byron Local Environmental Plan 2014, which restricts the permissibility of many of the desired uses.

Negotiations are advancing with tertiary education institutions to establish an education precinct on the site. Tertiary education is permissible with consent on this property subject to *State Environmental Planning Policy (Education establishments and Child Care Facilities) 2017*, despite the R2 zoning.

However, in order to achieve the other nominated uses on the site, including the provision of office space, a commercial kitchen and a café, a planning proposal is required to amend the Byron Local Environmental Plan 2014.

The drafted planning proposal (Attachment 1) contains provisions intended to be inserted into Byron LEP Schedule 1 Additional Permitted Uses. This would retain the current R2 zoning of the site, but allow office premises, restaurants/cafes and light industry (commercial kitchen) to be permitted with development consent.

The use of Schedule 1 is preferred to a change to the zoning of the site, as that would require consideration of the wider precinct, involving a greater ranger of studies and assessment.

**Proposed Schedule 1 addition**

The proposed clause to be inserted into Schedule 1 of the Byron LEP 2014 and will read as follows:

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| ***9 Use of certain land at Shirley Street, Byron Bay***1. *This clause applies to land at 10-12 Shirley Street (known as the “Old Byron Hospital Site”) being Lot 1, DP 847910, and identified as “Area F” on the*[*Local*](https://www.legislation.nsw.gov.au/#/view/EPI/2014/297/maps) *Clause Map.*
2. *Development for the following purposes is permitted with consent:*
	* 1. *Office premises;*
		2. *Light Industry, being for a commercial kitchen with a maximum floor space of 100m2; and*
		3. *Restaurant/ café.*
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***Key issues***

**Remediation of the Site and condition of the building**

During preliminary investigations, parts of the site were identified as being contaminated. The sources of contamination identified on the site include:

* Asbestos sheeting;
* PCB electrical fittings;
* Lead painted windows;
* Non-compliant air conditioning units with ozone depleting gas;
* Mould; and
* Radioactive Sands.

Council has prepared a remediation action plan and has commenced the remediation of the affected areas.

**Access and car parking**

While the property has a long history of use as a community hospital, car parking was never provided on the site. As such, it will not be possible to retain the existing building and cater for the parking demand generated by its adaptive reuse.

As consideration of the planning proposal progresses, it will be necessary to undertake a more detailed assessment of the traffic and parking implications associated with the intended uses. This will rely, in part, on the parking ‘credits’ associated with the historical use.

It is suggested that these assessments not commence until the State Government issues a Gateway determination for the planning proposal. In issuing such a determination, the Department will consider and advise as to the scope of such assessment and any other studies considered to be required.

It is anticipated that the current budget allocation for this project will be sufficient to procure these studies.

***Next steps***

The next step is to forward the planning proposal to the Department of Planning, Industry and Environment for gateway approval.

**STRATEGIC CONSIDERATIONS**

***Community Strategic Plan and Operational Plan***

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| **CSP Objective** | **L2** | **CSP Strategy** | **L3** | **DP Action**  | **L4** | **OP Activity** |
| **Community Objective 4: We manage growth and change responsibly** | 4.1 | Support the visions and aspirations of local communities through place-based planning and management  | 4.1.1 | Develop, implement and update Place Plans that promote place-based forward planning strategies and actions  | 4.1.1.8 | Amend Local Environmental Plan and Development Control Plan in accordance with Byron Hospital plan |

***Legal/Statutory/Policy Considerations***

All statutory matters have been addressed in the Planning Proposal (Attachment 1)

***Financial Considerations***

There is currently $85,000 allocated in the 2019/2020 budget for the planning proposal.

***Consultation and Engagement***

Public exhibition will be undertaken in accordance with the Gateway determination.