

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

19 November 2020

Section 7.11 contributions Schedule for DA10.2020.138.1						
Ocean Shores Catchment						
This schedule was calculated in spreadsheet #E2018/73086						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		5	@	0.75 SDU	=	3.75
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	2.75
Schedule valid until				After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-OS)	2.75	SDU @	\$ 1,769.39	=	\$ 4,865.82
LGA Wide Open Space & Recreation	(OS-SW)	2.75	SDU @	\$ 765.88	=	\$ 2,106.17
LGA wide Community Facilities	(CF-SW)	2.75	SDU @	\$ 1,121.71	=	\$ 3,084.70
Local Community Facilities	(CF-OS)	2.75	SDU @	\$ 1,527.69	=	\$ 4,201.15
Bikeways & Footpaths	(CW-OS)	2.75	SDU @	\$ 482.42	=	\$ 1,326.66
Shire Wide Bikeways & Footpaths	(CW-SW)	2.75	SDU @	\$ 82.28	=	\$ 226.27
Urban Roads	(R-OS)	2.75	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	2.75	SDU @	\$ 231.75	=	\$ 637.31
Rural Roads	#N/A	2.75	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	2.75	SDU @	\$ 1,158.46	=	\$ 3,185.77
Total					=	\$ 19,633.85

(Hunter/Richardson)

The motion was put to the vote and declared carried.

Crs Coorey, Martin, Ndiaye, Richardson, Cameron, Hackett and Hunter voted in favour of the motion.

Cr Spooner voted against the motion.

Report No. 13.19 PLANNING - 26.2020.7.1 E zone Implementation Program - Planning Proposal STAGE 3 BLEP 2014 – Gateway Submission
File No: I2020/1576

20-614 Resolved that Council:

- Amend the planning proposal contained in Attachment 1 (E2020/85949) to exclude the following land in the 7D Scenic Escarpment Zone, representing 'non-agreed' environmental zoning outcomes that can be collectively considered as part of a future strategic review of remaining 7D land in the Shire:
 - Lot 5 DP 625004, 470 Main Arm Road, Main Arm
 - PT Lot 22 SP 549688, 139 Bangalow Road, Byron Bay
 - Lot 21 DP 859004, 83 Walkers Lane, The Pocket
 - Lot 1 DP 719570, 133 Middle Ridge Road, Upper Main Arm
 - Lot 5 DP 625004, 470 Main Arm Road, Main Arm
 - Lot 11 DP 816147, 689 Left Bank Road, Mullumbimby Creek
 - Lot 285 DP 1198641, 64 Corkwood Cres, Suffolk Park
 - Lot 4 DP 635176, 526 Broken Head Road, Broken Head
- Submit the amended planning proposal to the NSW Department of Planning, Industry and Environment for Gateway determination;

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3. Pending Gateway determination, undertake public exhibition of the planning proposal and consult with government agencies in accordance with the Gateway determination; and
4. Receive a report outlining the exhibition outcomes. (Hunter/Ndiaye)

The motion was put to the vote and declared carried.

Crs Coorey, Martin, Ndiaye, Richardson, Cameron, Hackett, Spooner and Hunter voted in favour of the motion.

No Councillors voted against the motion.

MAYORAL MINUTE

Mayoral Minute No. 8.1 Use of public spaces for busking and other activities
File No: I2020/1759

- 20-615 Resolved** that Council end the current suspension on the use of public spaces for busking or other activity within the definition, including: tarot cards and palm readers, fortune readers, or the display or demonstration of items, particularly multiples of items, with an implication that they are available for sale or otherwise in exchange for money from 14 December 2020. (Richardson)

The motion was put to the vote and declared carried.

SUBMISSIONS AND GRANTS

There were no submissions and grants.

DELEGATES' REPORTS

1. Rous Meeting on 18 November 2020

Cr Richardson advised:

We had a workshop with Rous yesterday really trying to flesh out ways forward as far as our future water strategy. As you'd know we had a presentation here about the dam, etc. I put forward a Notice of Motion which was ably supported by Cr Cameron, but not many more others, to just pause on the dam preference and instead also do a whole lot of independent reports on water tanks, recycled water, demand management, etc. Instead the board members were happy to have a workshop to start to flesh out what that could look like which was probably a step too quick and too big for them to support.

I'm hopeful that something like my Notice of Motion, if not the exact same thing, will then come to a December meeting. I think would have a significant support from Councillors to seek or am I optimistic? I've got to say there aren't too many that are rusted-on pro-dammers who wake up thinking "I can't wait for a dam;" but the more you know about this space the less comfortable you are of predicting a different outcome.

I think there is an appetite to at least get the information in front of the community that the community is looking for. Both Basil and I talked about, in a sense, passing that pub test – does the average person know why or why not we could do water tanks, does the average person know what the cost would be and what the realities of recycled water are? I would say right now no and Rous needs to answer those questions. So let's watch this space - as I said, the December meeting will be one where hopefully we will at least get some other reports started.

Report No. 13.19 **PLANNING - 26.2020.7.1 E zone Implementation Program - Planning Proposal STAGE 3 BLEP 2014 – Gateway Submission**
Directorate: Sustainable Environment and Economy
Report Author: Alex Caras, Land Use Planning Coordinator
File No: I2020/1576

Summary:

The purpose of this report is to present the Stage 3 Planning Proposal (Attachment 1) for Council's endorsement to enable submission to the Department of Planning, Industry & Environment for Gateway determination.

This follows Council's resolution (**Res 18-186**) at its 22 March 2018 Ordinary Meeting to implement the Department's 'Northern Councils E Zone Review Final Recommendations Report' in several stages to deliver more timely and effective outcomes for affected landowners.

Stage 3 Planning Proposal (PP) applies environmental and non-environmental zones to 2,206 properties in the Shire, which includes approximately 5,350 ha of *E2 Environmental Conservation* zones and 730 ha of *E3 Environmental Management* zones. It also amends other LEP 2014 maps such as Minimum Lot Size, Height of Building, Floor Space Ratio, Drinking Water Catchment, Acid Sulfate Soils and Multiple Occupancy & Community Title Maps.

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.

RECOMMENDATION:

That Council:

- 1. submit the planning proposal contained in Attachment 1 (E2020/85949) to the NSW Department of Planning, Industry and Environment for Gateway determination;**
- 2. pending Gateway determination, undertake public exhibition of the planning proposal and consult with government agencies in accordance with the Gateway determination; and**
- 3. receive a report outlining the exhibition outcomes.**

Attachments:

- 1 E zone Implementation Program - Planning Proposal STAGE 3 BLEP 2014 – Gateway Version, E2020/85949 

REPORT

5 Council at its 22 March 2018 Ordinary Meeting resolved (**Res 18-188**) to implement the Department's 'Northern Councils E Zone Review Final Recommendations Report' in several stages to deliver more timely and effective outcomes for affected landowners. An overview of the latest staged implementation program is shown in Figure 1 below.

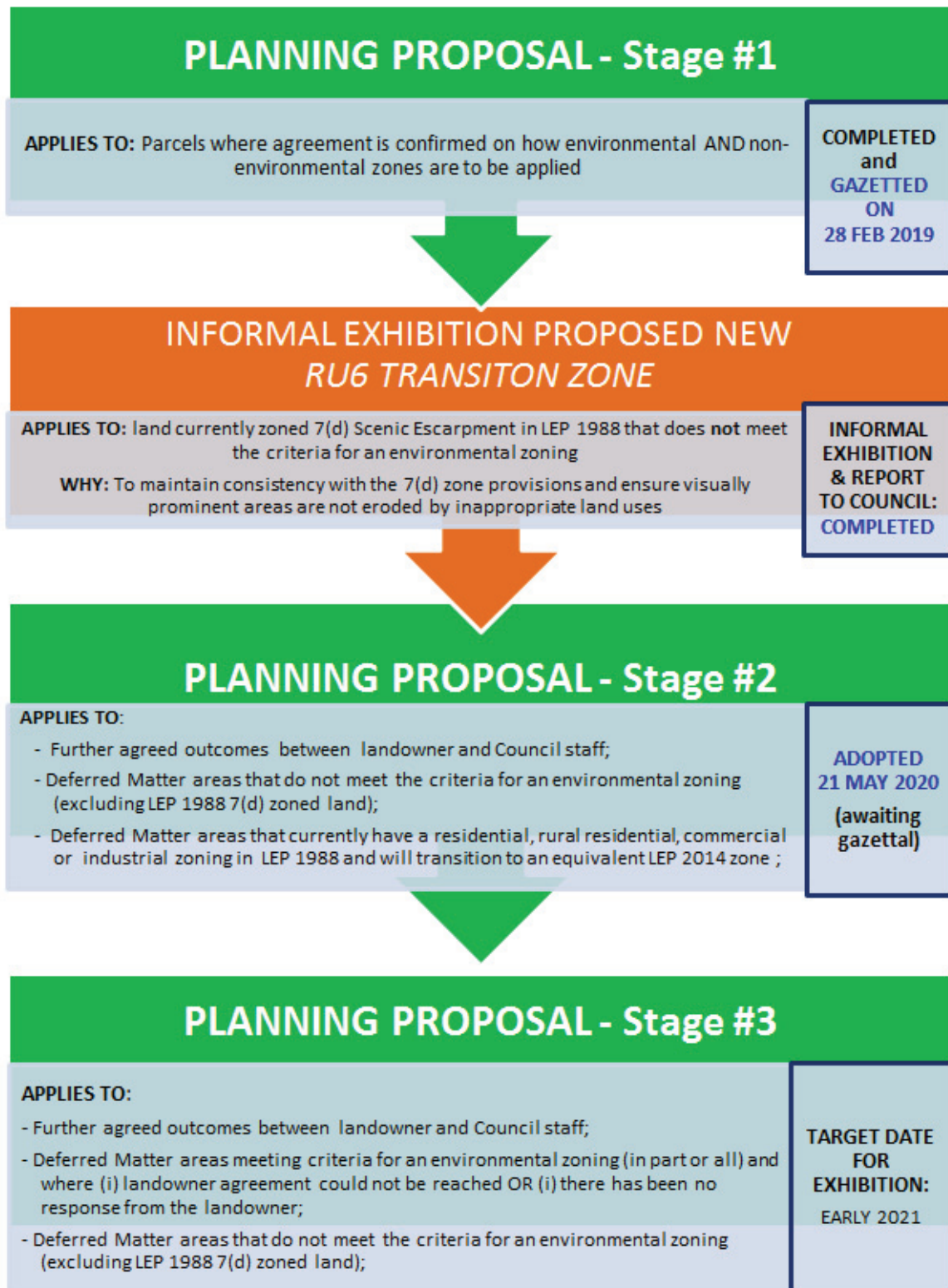


Figure 1: Staging Program to apply environmental and other zones on certain land in Byron LEP 2014

Stage 1 Planning Proposal (PP1)

PP1 applied environmental and non-environmental zones to 64 properties in the Shire based on agreed outcomes. This included approximately 340 ha of *E2 Environmental Conservation* zones and 60 ha of *E3 Environmental Management* zones.

Status: gazetted on 28 February 2020.

Stage 2 Planning Proposal (PP2)

PP2 applies environmental and non-environmental zones to 619 properties in the Shire based on agreed outcomes. Approximately 1,485 ha of *E2 Environmental Conservation* zones and 400 ha of *E3 Environmental Management* zones are applied in PP2. It also amends other LEP 2014 maps such as Minimum Lot Size, Height of Building, Drinking Water Catchment and Acid Sulfate Soils Maps.

Status: adopted by Council on 21 May 2020 and currently with the State government for finalisation.

Stage 3 Planning Proposal (PP3)

This report presents the Stage 3 Planning Proposal (Attachment 1) for Council's endorsement to enable submission to the Department of Planning, Industry & Environment for Gateway determination.

In relation to the Stage 3 Planning Proposal, Council previously resolved [*Resolution 18-188*] to:

“(6) Receive a report on draft Planning Proposal #3: (PP3) for:

- (i) *Parcels where there is no agreement reached between the landowner and Council staff on proposed environmental zone/s; or*
- (ii) *Deferred Matter areas that meet the criteria for an environmental zoning (in part or all) and where there has been no response from the landowner; or*
- (iii) *remaining LEP 1988 7(d) zoned land to be zoned RU6 Transition (subject to Council endorsement).*

as soon as practical after Council's adoption of Planning Proposal #2.”

PP3 applies environmental and non-environmental zones to 2,206 properties in the Shire, which includes approximately 5,350 ha of *E2 Environmental Conservation* zones and 730 ha of *E3 Environmental Management* zones.

Consultation and Engagement to date

The E zone engagement process to date has been robust, constructive and well received by the majority of those affected. Key elements include:

- ✓ notification letters all potentially affected E zone landowners requesting feedback in early October 2017, with follow-up letters sent in March 2018 and June 2019.

The letters invited landowners to review the mapping with Council staff in order to understand the planning process and E zone criteria. This enabled more informed landowner feedback which in turn provided more accurate and up-to-date information to inform the rezoning of land to an environmental, rural and/or urban zone.

- ✓ supporting material on Council's website including: an overview of review process; electronic access to interactive mapping; an online (FAQ) video, FAQs and fact sheets including information on proposed uses and objectives in the E2 and E3 zones;
- ✓ opportunities for one on one meetings in Council's offices (beneficial for all landowners

including those who were not computer savvy or unable to use Council's website to see what part of their land may be affected by a potential E2 or E3 zone and/or understand how primary land use was determined);

- 5 ✓ site visits (where required or requested) to ground truth Council's vegetation mapping and inform appropriate environmental conservation and management zones; and
- ✓ responding to stakeholder phone enquiries and emails, many of which were able to be easily and quickly resolved by staff emailing more detailed vegetation and E zone mapping information at a 'close-up' property scale.

10 Since commencing the E zone review in October 2017, Council's commitment to the engagement process is demonstrated by:

- ✓ over **830 face-to-face meetings** with affected landowners and/or representative consultants;
- ✓ over **110 on-site inspections**; and
- ✓ over **970 agreed outcomes** arising from submissions received

15 The engagement process has been successful in:

- ✓ providing genuine opportunities for landowner issues/potential fears to be heard and for them to have a say in the future use of their land (and thus a sense of ownership in the process);
- 20 ✓ supporting landowner aspirations regarding biodiversity/habitat/corridor enhancement;
- ✓ enabling Council to update its mapping of primary land use and updated vegetation information in collaboration with landholders;
- ✓ using a 'staged' process so that landowners did not feel pressured into making decisions within a 'fixed' timeframe and therefore could take as much time as needed to make informed decisions about their property; and
- 25 ✓ verifying that a very high percentage of the shire including primary producers and urban residents had aspirations of protecting the natural environment for current/future generations.

30 **RECOMMENDATION**

It is recommended that Council endorse the E zone Stage 3 Planning Proposal (Attachment 1) to enable submission to the Department of Planning, Industry & Environment for Gateway determination.

35 **STRATEGIC CONSIDERATIONS**

Community Strategic Plan and Operational Plan

CSP Objective	LSPS Priority	CSP Strategy	DP Action	OP Activity
3. We protect and enhance our natural environment	Protect and enhance our biodiversity, ecosystems and ecology	3.1 Partner to protect and enhance our biodiversity, ecosystems and ecology	3.1.1 Protect and enhance our natural environment and biodiversity	3.1.1.4 Continue the E zone review (Action No.9 from Rural Land Use Strategy)

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

The process of applying E zones and mapped overlays in Byron LEP 2014 is being undertaken in accordance with Section 117 Direction 2.5 – *Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs*. This direction specifically requires that a planning proposal that

introduces or alters an *E2 Environmental Conservation* or *E3 Environmental Management Zone*, or an overlay and associated clause must be consistent with the *Northern Councils E Zone Review Final Recommendations*

5 *Financial Considerations*

The remaining 2020/21 budget for the E zone Implementation program will most likely be exhausted before 30 June 2021. If so, a separate report will be presented to Council detailing the additional 2020/21 budget required to finalise Stage 3 planning proposal and enable commencement of Stage 4. Stage 4 includes Council and public authority lands and will be the final stage of applying E Zones.

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