

17.2 PLANNING PROPOSAL PP2019/0003 FOR A GENERAL INDUSTRIAL REZONING OF LAND IMMEDIATE TO THE EAST OF CASSINO DRIVE INDUSTRIAL ESTATE, CASINO**EXECUTIVE SUMMARY**

Council has received a Planning Proposal application (PP2019/0003) to amend the *Richmond Valley Local Environmental Plan 2012* (the LEP) to enable rural land on Johnston Street, Casino (Bruxner Highway), being Lots 1 to 12 and 14 to 20 Section 6 DP976660, Lot 1 DP783330, and a section of unformed Crown Road, to be developed for general industry. The proposed development is sited immediately to the east of the existing Cassino Drive industrial estate (Zoned IN1 General Industry), and is strategically supported as future employment land within the *North Coast Regional Plan 2036* and the *Casino Urban Land Release Strategy 2005*.

The Land is currently zoned RU1 Primary Production, with a minimum lot size for subdivision of 40ha. To facilitate general industrial development of the land, the LEP requires amendment to change the:

- Land Zone Map—by applying *Zone IN1 General Industry* to the land; and
- Lot Size Map—by applying a minimum lot size (MLS) of 750m² to the land.

Council's support for the Planning Proposal is required to commence the rezoning process. This will cause the Planning Proposal to be submitted to the Department of Planning and Environment (DPE) for a Gateway Determination, which normally incorporates conditional agency and community consultation.

A further report on the Planning Proposal will be required at the conclusion of the consultation phase, where Council must decide whether to proceed with the LEP amendment, in whole or part; or not at all. If it is to proceed, Council may use Ministerial Plan Making delegations to prepare and make the final LEP amendment, but only where such delegations have been sought, and granted, through the Gateway process. These delegations should be sought for this Planning Proposal and assigned to the General Manager.

RESOLUTION 190319/14

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That:

1. Council support Planning Proposal PP2019/0003 which proposes to amend the *Richmond Valley LEP 2012*, as it applies to Lots 1 to 12 and 14 to 20 Section 6 DP976660, Lot 1 DP783330, and a section of enclosed unformed Crown Road, by rezoning the land to facilitate its development for general industry (Zone IN1) with a minimum lot size of 750m²;
2. PP2019/0003 be directed to the DPE for a Gateway Determination; and
3. EP&A Act Ministerial Plan Making delegations be requested for the General Manager.

CARRIED

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Author: Tony McAteer, Coordinator Planning Services

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RECOMMENDATION

That:

1. Council support Planning Proposal PP2019/0003 which proposes to amend the *Richmond Valley LEP 2012*, as it applies to Lots 1 to 12 and 14 to 20 Section 6 DP976660, Lot 1 DP783330, and a section of enclosed unformed Crown Road, by rezoning the land to facilitate its development for general industry (Zone IN1) with a minimum lot size of 750m²;
2. PP2019/0003 be directed to the DPE for a Gateway Determination; and
3. EP&A Act Ministerial Plan Making delegations be requested for the General Manager.

DELIVERY PROGRAM LINKS

Growing our Economy

EC1 Driving Economic Growth

EC1.7 Provide flexible and innovative planning controls

EC1.8 Provide sustainable Urban Development Opportunities

BUDGET IMPLICATIONS

Nil.

REPORT

Council is in receipt of Planning Proposal application (PP2019/0003) prepared by Newton Denny Chapelle and lodged on behalf of Mr J & Mr G Imeson. The application seeks to amend the *Richmond Valley Local Environmental Plan 2012* (the LEP) by rezoning a 14.41ha parcel of land adjoining the Cassino Drive Industrial Estate, and described as:

- Lots 1 to 12 and 14 to 20 Section 6 DP976660,
- Lot 1 DP783330, and
- a section of enclosed unformed Crown road,

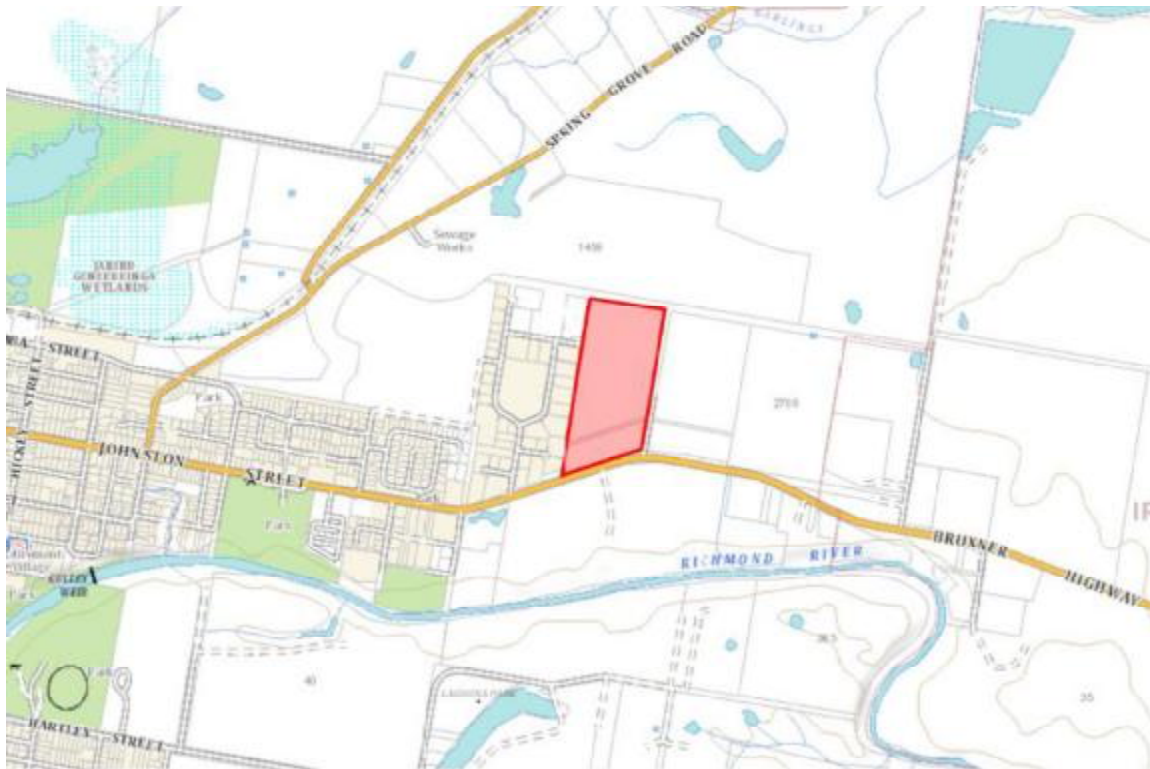


Figure 1 – Locality Plan identifying the subject land (shaded and outlined in red) to the east of Casino on Johnston Street (Bruxner Highway).

The Land currently has a Land Zone of *RU1 Primary Production* under the LEP; along with a minimum lot size of 40ha for subdivision purposes (see the top 2 plates within figure 3). To facilitate development of the land for general industry, Planning Proposal PP2019/0003 seeks to amend the LEP by changing the:

- Land Zone Map from Zone *RU1 Primary Production* to Zone *IN1 General Industry*; and
 - Lot Size Map from a minimum lot size of 40ha to 750m²,
- as it applies to the Land (see the bottom 2 plates in figure 3).



Amending a LEP is done under Part 3 of the *Environmental Planning and Assessment Act 1979* via a Planning Proposal. The purpose of a Planning Proposal is to explain the intended effect of undertaking an amendment and sets out its justification, including:

- Once Council is satisfied with a Planning Proposal it is submitted to the DPE for a Gateway Determination. A further review is undertaken by the Minister and a determination made as to whether the matter should proceed, and if so, whether additional studies are needed; whether the Planning Proposal requires change; and outlining minimum consultation requirements. When a conditional determination is made it will outline any requirements from above, including if, how and when consultation with relevant Government Authorities and the community should be undertaken.

Planning Proposal PP2019/0003 has been prepared in accordance with the DPE *Guide to Preparing Planning Proposals* (2016). In preparing the planning proposal consideration was given to the land's suitability against State, regional and local plans, policies and strategies, and Section 117 (s9.1) Ministerial Plan Making Directions. The only inconsistency found with this proposal relates to *Ministerial Direction 4.3 Flood Prone Land*, which will be discussed later in this report.

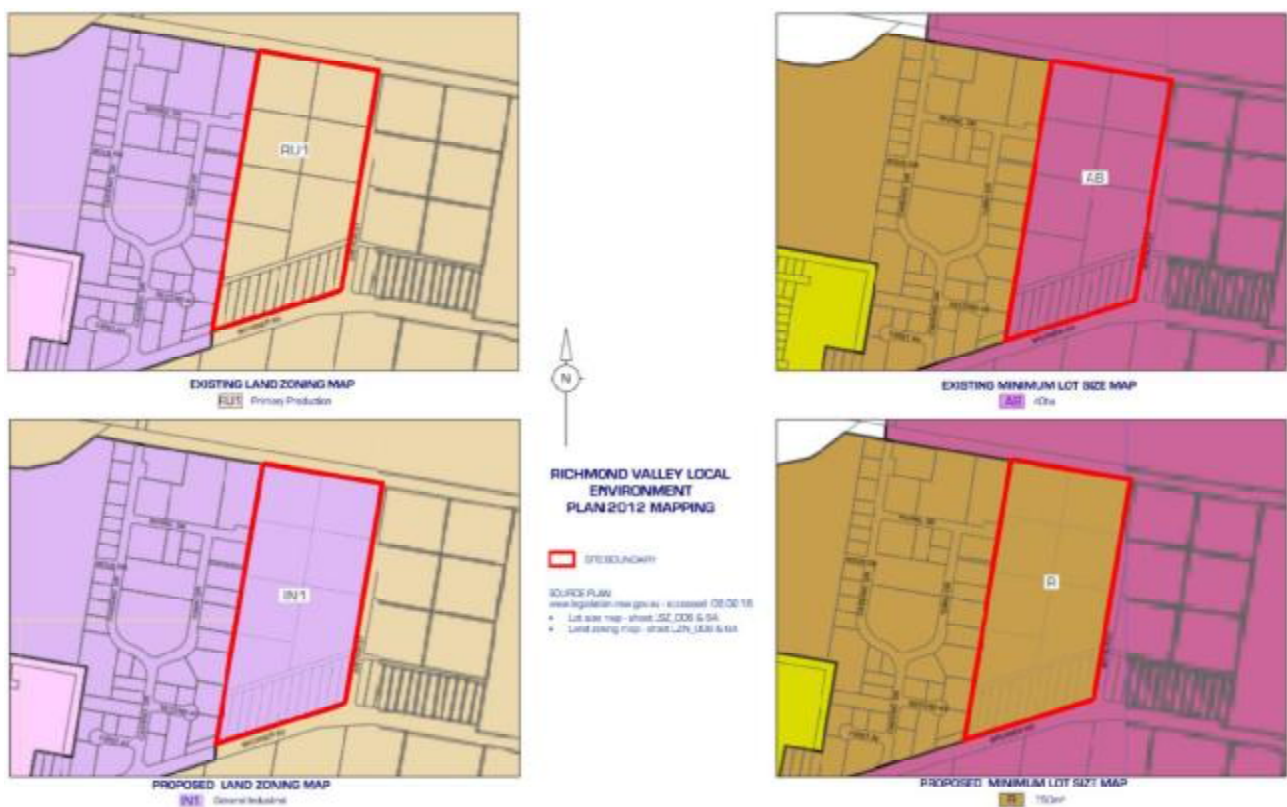


Figure 3 – Figure showing the existing Land Zone & Lot Size for the Land and intended amendments by PP2019/0003

North Coast Regional Plan 2036

The *North Coast Regional Plan 2036* was endorsed by the Minister for Planning in March 2017. The Plan provides for the sustainable and managed future growth of urban settlements in the North Coast region, extending from Tweed to Port Macquarie. An extract from Figure 17 of the Plan (see figure 4 in this report) depicts Urban Growth Boundaries for Casino, including the Land as an Investigation Area—Employment Land.

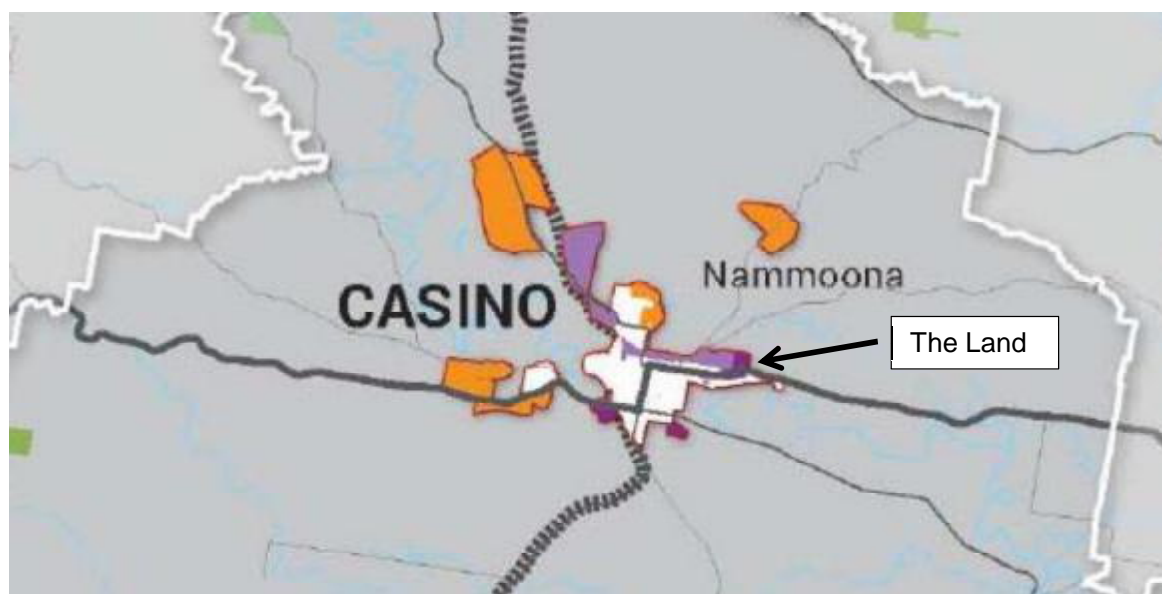


Figure 4 – Extract from North Coast Regional Plan 2036 Urban Growth Area Map (Figure 17) for Casino – (Dark purple areas represent Investigation Area—Employment Lands).

Relevant Directions and Actions from the *North Coast Regional Plan* have been addressed below:

<ul style="list-style-type: none"> Direction 1: Deliver environmentally sustainable growth 	<p>This Planning Proposal delivers on Action 1 by focusing future urban development to mapped urban growth areas.</p> <p>The subject land is identified as ‘under investigation’ for employment land.</p> <p>The Land does not have potentially high environmental values.</p>
<ul style="list-style-type: none"> Direction 2: Enhance Biodiversity, Coastal and Aquatic Habitats, and Water Catchments 	<p>The subject land has no biodiversity values, is not in a coastal area, and is not within a drinking water catchment.</p>
<ul style="list-style-type: none"> Direction 3: Manage Natural Hazards and Climate Change 	<p>The land is not within a coastal environment.</p> <p>The land is located on the floodplain. Refer to comments on flood later in this report.</p> <p>The land and its immediate surrounds are not bushfire prone land and comprise managed grassland. Notwithstanding, appropriate planning for bushfire protection will be required to buffer future development from potential fire risk from adjoining rural land.</p>
<ul style="list-style-type: none"> Direction 6: Develop successful centres of employment 	<p>The proposal aims to deliver an adequate supply of employment land to support jobs growth.</p>

<ul style="list-style-type: none"> Direction 11: Protect and enhance productive agricultural land 	<p>The land has been mapped as significant farmland, however, Section 117 (s9.1) Ministerial Direction 5.3 justifies an inconsistency with the policy because the land is identified as an urban growth area in the <i>North Coast Regional Plan</i>.</p> <p>Notwithstanding, it is more than likely that industry established within this site will service and support the farming and rural sectors.</p>
<ul style="list-style-type: none"> Direction 18: Respect and Protect the North Coast's Aboriginal Heritage 	<p>A cultural heritage assessment was undertaken to establish the likelihood of finding Aboriginal cultural heritage on the land. The assessment included an AHIMS search, literature reviews, and documented a site inspection undertaken in consultation with the Casino-Boolangle Local Aboriginal Land Council.</p> <p>The assessment concludes that works are unlikely to harm Aboriginal objects, and recommends a number of precautionary measures to be engaged during the development phase of the development.</p>
<ul style="list-style-type: none"> Direction 19: Protect Historic Heritage 	<p>There are no historic sites within the vicinity of this land.</p>

Infrastructure

The subject property is not currently serviced by reticulated water or sewer. An engineering services review included in the Planning Proposal indicates that existing infrastructure can be extended to adequately service the intended development of the Land.

Sewer - The Engineering Services Report recommends servicing the development with a private pressure sewer system similar to that operating in Broadwater, although this is not necessarily Council's preferred option. Notwithstanding, Council is satisfied a traditional gravity sewer system, similar to that operating in the township, can be installed with a direct rising main connection to the Casino Sewage Treatment Plant.

Water - existing 150mm water services located at Cassino Drive/Johnston Street and with Irving Drive can be extended to service the Land.

Electricity and telecommunications – these services can be extended but may require upgrades to guarantee supply. Consultation with the relevant supply authorities needs to be undertaken.

Roads - A traffic impact assessment for the proposal recommends a new T-intersection with the Bruxner Highway, having channelised left and right turn bays similar to the intersection at Cassino Drive. It also recommends extending the 50km/hr speed limit a further 200 metres to the east of its current location on the Bruxner Highway. The intersection type and design are considerations for the development assessment phase of this project, and will be subject to the requirements and approval of NSW Roads and Maritime Services. Notwithstanding, alternative options to a T-intersection could include a roundabout which may reduce the number of intersections planned (particularly if a residential Planning Proposal opposite this land is successful); can add to the aesthetics of the town entry; can reduce traffic speed entering town; but comes at an increased cost to the developer. In any case, the assessment demonstrates a new intersection can be safely configured to service the proposed development.

Stormwater - Stormwater management is still to be resolved. The proposal nominates treatment of stormwater within the boundaries of the industrial estate before discharging it to the north and south of the Land. Details on how stormwater will be treated, and how it will be drained away from the site have not been provided.

Flood Risk Management

Section 117 (s9.1) Ministerial Direction 4.3 Flood Prone Land requires a Planning Proposal to be consistent with the *NSW Government's Flood Prone Land Policy* and principles of the *Floodplain Development Manual 2005*, and to ensure the provisions of an LEP on flood prone land are commensurate with flood hazard.

Direction 4.3 specifically provides that a Planning Proposal “*must not rezone land within the flood planning areas from ... Rural ... to ... Industrial ...*” unless the proposal can justify an inconsistency by satisfying the Director-General that:

“(a) *the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or*

“(b) *the provisions of the planning proposal that are inconsistent are of minor significance.*”

The *Casino Floodplain Risk Management Plan 2002* and the associated Study were prepared in accordance with the *Floodplain Development Manual 2001* (as it was at that time). It adopts Flood Modelling of various flood frequencies, and a Flood Planning Matrix to guide development. Table 3 of the Matrix specifies the flood planning requirements for industrial development.

Flood Hazard – The land is located on the lower edge of flood hazard mapping but flood level information is available (see Table 1). The land is categorised as having a low hazard to high depth hazard based on the available hazard mapping and flood level information. A one in 100 year ARI flood event (a 1% flood) would result in floodwater depths over the Land between 0.4m and 1.0m. While a one in ten year ARI flood event (a 10% flood) has a level of 19.9m AHD and would not go over the Land.

Location on Property	Ground Level (AHD)	1% Flood Level (AHD)	10% Flood Level (AHD)	Fill Depth to 1% Flood Level
South-West Corner	20.8	21.2	20.0	0.4
North-East Corner	20.0	21.0	20.0	1.0

Table 1 – Casino Flood Study Level information for the Land

Development Type	Low Hazard	High Depth Hazard	Comments
Land Use Suitability & Fill Level—Subdivision	<p><i>Code SF</i> - Consider the development subject to the controls below.</p> <p>For industrial areas, the minimum fill level to be greater or equal to the 10 year flood event.</p>		A 10 year flood event does not go over the land, however these levels do not include Climate Change. It is likely that ground levels similar to those in the Cassino Drive Industrial Estate should be provided (which equate to the 100yr level). However, the Planning Proposal has committed to doing an intensive Flood Study, post-Gateway, to determine minimum fill levels for drainage and flood immunity
Floor Level—New Commercial or Industrial Building	<p><i>Code FL2a</i> – All floor levels to be greater than or equal to the 100 year flood level.</p>		Floor levels would need to be between 0.4m and 1.0m above natural ground level, depending on where they are located on the Land, to achieve this standard
Structural Soundness—Ancillary buildings and	<i>Code SS1</i> – No structural	<i>Code SS2</i> – Engineers	An Engineer's report will not be required for structures built in this

other buildings	soundness requirements for the force of floodwater, debris & buoyancy	report to prove that structures subject to flood up to the 100 year event can withstand the force of floodwater, debris & buoyancy	estate if the land is filled to the minimum standards provided above.
Flood Effect—Subdivision	<i>Code FE2 – The flood impact of the development to be considered by Council, with Council having the right to request an engineer's report (see FE3) (FE3 Engineers report required to prove that the development will not result in adverse flood impact elsewhere).</i>		A Flood Study, post Gateway, has been recommended in the Planning Proposal. This study will establish fill levels and determine whether the development may result in adverse flood impacts on adjoining properties.

Table 2 - Flood Planning Matrix – Extract from Table 3 of the Matrix and provides Flood Planning Requirements for industrial development/subdivision

As a result of the above, an inconsistency with Ministerial Direction 4.3 is justified as the proposal can be developed to meet the flood planning requirements of the *Casino Floodplain Risk Management Plan*.

PLAN MAKING PROCESS AND FUNCTIONS

Preparation of an amending LEP normally goes through the following phases:

1. Prepare a Planning Proposal (includes endorsement by Council resolution)
2. Gateway Determination issued by Minister (usually conditional)
3. Council undertakes Agency consultation, followed by community consultation (as required)
4. Council finalises the Planning Proposal (This includes a review of submissions; and involves resolving to continue with the amendment in whole or part, or by rejecting the proposal)
5. a) Where Ministerial Delegation withheld—Council requests DPE to make the LEP Amendment (Council gets to proof the amendment before it is made by the Minister) – Process for Council ends here
 - b) Where Council is granted Ministerial Delegations—Council requests Parliamentary Counsel to draft the amending LEP (this is the legal instrument to facilitate the amendment(s))
6. Council makes the Amending LEP (the Plan is signed by General Manager as delegate)
7. Council submits the Amending LEP to DPE to notify on the NSW Government Legislation website (the amendment becomes effective from the date of notification or such later date as specified in the amendment)

This Planning Proposal is currently at Step 1.

The Minister's Plan Making functions (Steps 5b, 6 & 7) can be requested through the Gateway and are routinely issued for spot rezoning's that are consistent with the Regional Plan.

The Minister's Plan Making functions should be sought for this Planning Proposal and be granted to the General Manager.

CONSULTATION

There are minimum consultation requirements for Planning Proposals, however each Gateway Determination is reviewed on merit by DPE and the consultation requirements are conditioned. Normal consultation requirements for a spot rezoning are agency consultation followed by a minimum 28 day public exhibition.

At the conclusion of the consultation phase, a further report to Council will be required if the amendment is to proceed, with or without amendment.

CONCLUSION

Planning Proposal PP2019/0003 has been lodged with Council seeking to rezone Lots 1 to 12 and 14 to 20 Section 6 DP976660, Lot 1 DP783330, and a section of enclosed unformed Crown Road, to facilitate development of the land for general industry.

The Planning Proposal is consistent with the *North Coast Regional Plan* by actioning Direction 1 to delivery future urban development within mapped future Urban Growth Areas. Assessment of the proposal also shows it is generally consistent with State, Regional and Local Plans, Policies and Strategies, as well as Section 117 (s9.1) Ministerial Plan Making Directions, with flooding being an exception, although flood risk can be managed in accordance with the *Casino Floodplain Risk Management Plan*.

It is recommended Council support the planning proposal to commence the Gateway Planning process. Furthermore, Council should also seek the Minister's Plan Making functions for this planning proposal and grant these to the General Manager to enable making of the final LEP amendment under delegation.

ATTACHMENT(S)

Nil