

## JOINT REGIONAL PLANNING PANEL (Northern Region)

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| JRPP No                                                   | 2016NTH004                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DA Number                                                 | <b>DA10.2016.77.1</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Local Government Area                                     | <b>Byron Shire Council</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Proposed Development                                      | <b>The Byron Bay Bypass</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Street Address                                            | Butler Street (including road reserve southern extension);<br>Browning Street;<br>part of Casino-Murwillumbah Railway Line Corridor;<br>Shirley Street;<br>Lawson Street;<br>Somerset Street;<br>Burns Street;<br>Wentworth Street;<br>Jonson Street;<br>Lot 7 DP 258071 (Jonson Street);<br>Lot 8 DP 818197 (Jonson Street) and<br>Lot 6 Section 51 DP 758207 (Browning Street).<br><br>Byron Bay                                                                                                                                                                           |
| Applicant/Owner                                           | GHD Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Number of Submissions                                     | The DA was placed on public exhibition from 25/02/2016 to 01/04/2016 in accordance with the requirements for designated development. Forty three submissions were received. In addition to this exhibition, the previous DA for the bypass (DA10.2015.384.1) also attracted significant community interest with 609 submissions received. With the withdrawal of the 2015 application taking place immediately before the lodgement of the current proposal, Council advised the submitters that their previous submissions would be considered in the assessment of the DA. |
| Regional Development Criteria<br>(Schedule 4A of the Act) | The proposal is a Council related development over \$5 million in cost and satisfies the criteria for regional development under Schedule 4A of the Act.                                                                                                                                                                                                                                                                                                                                                                                                                     |
| List of All Relevant s79C(1)(a) Matters                   | <ul style="list-style-type: none"> <li>List all of the relevant environmental planning instruments:<br/>s79C(1)(a)(i)<br/>SEPP 14 Wetlands ("SEPP14")<br/>SEPP 44 Koala Habitat Protection<br/>SEPP 55 Remediation of Contaminated Lands<br/>SEPP 71 Coastal Protection<br/>SEPP (Infrastructure) 2007 ("ISEPP")</li> </ul> <p><i>Byron LEP 2014</i></p>                                                                                                                                                                                                                     |

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|                                                                             | <p><i>Byron LEP 1988</i></p> <ul style="list-style-type: none"> <li>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)<br/><i>No proposed instruments apply</i></li> <li>List any relevant development control plan: s79C(1)(a)(iii)<br/><i>Byron DCP 2010</i><br/><i>Byron DCP 2014</i></li> <li>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)<br/><i>Not Applicable</i></li> <li>List any coastal zone management plan: s79C(1)(a)(v)<br/><i>Not Applicable</i></li> <li>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288<br/><i>NSW Coastal Zone Policy 1997</i><br/><i>Demolition of Building AS 2601</i></li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| List all documents submitted with this report for the panel's consideration | <p><b>Attachment 1</b></p> <p><b>Attachment 2</b></p> <p><b>Attachment 3</b></p> <p><b>Attachment 4</b></p> <p><b>Attachment 5</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><b>Submissions Table and Comments</b></p> <p><b>Director General's Requirements (Secretary's Environmental Assessment Requirements)</b></p> <p><b>Acoustic Review Report – Byron Bay Bypass/ Butler Street Upgrade By Noise Measurement Services 7 June 2016</b></p> <p><b>Heritage referral for Historical Heritage Assessment for Byron Bay Bypass DA10.2016.77.1 by Debra Wray for Byron Shire Council March 2016</b></p> <p><b>Conditions of Consent</b></p> |
| Recommendation                                                              | Pursuant to Section 80 of the EP&A Act 1979, Development Application 10.2016.77.1 for the Byron Bay Bypass be granted consent, subject to the conditions in Attachment 5.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Report by                                                                   | <p><b>Chris Larkin</b></p> <p><b>Major Projects Planner</b></p> <p><b>Byron Shire Council</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Report date                                                                 | <b>10 June 2016</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

# DEVELOPMENT APPLICATION EVALUATION REPORT

Doc No. #A2016/3732

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| <b>DA No:</b>                                   | 10.2016.77.1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Proposal:</b><br><b>"Byron Bay Bypass"</b>   | <p>Construction of new road and upgrade of existing road in:</p> <ul style="list-style-type: none"> <li>• Butler Street (including the road reserve southern extension);</li> <li>• Browning Street;</li> <li>• Part of the Casino-Murwillumbah railway corridor;</li> <li>• Shirley Street;</li> <li>• Lawson Street;</li> <li>• Somerset Street;</li> <li>• Burns Street;</li> <li>• Wentworth Street; and</li> <li>• Jonson Street</li> </ul> <p>Including:</p> <ul style="list-style-type: none"> <li>• upgrade of the existing roundabout at the intersection of Shirley Street, Lawson Street and Butler Street;</li> <li>• construction of three new roundabouts;</li> <li>• two new culverts; and</li> <li>• upgrade of an existing culvert.</li> </ul> |
| <b>Property description (all in Byron Bay):</b> | <p>Butler Street (including road reserve southern extension);<br/> Browning Street;<br/> part of Casino-Murwillumbah Railway Line Corridor;<br/> Shirley Street;<br/> Lawson Street;<br/> Somerset Street;<br/> Burns Street;<br/> Wentworth Street;<br/> Jonson Street;<br/> Lot 7 DP 258071 (Jonson Street);<br/> Lot 8 DP 818197 (Jonson Street) and<br/> Lot 6 Section 51 DP 758207 (Browning Street).</p>                                                                                                                                                                                                                                                                                                                                                  |
| <b>Parcel No/s:</b>                             | 237984, 34760, 157310, 34720                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Applicant:</b>                               | GHD Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Owner:</b>                                   | Byron Shire Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Date received:</b>                           | 15 February 2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Integrated Development:</b>                  | Yes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Public notification or exhibition:</b>       | <ul style="list-style-type: none"> <li>– Designated development per the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&amp;A Reg)</li> <li>– Exhibition period: 25/02/2016 to 01/04/2016</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Delegation to determination:</b>             | JRPP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Issues:</b>                                  | <ul style="list-style-type: none"> <li>• Designated development</li> <li>• Species Impact Statement</li> <li>• Biodiversity – Biobanking Statement</li> <li>• Heritage</li> <li>• Development requiring Concurrence</li> <li>• Integrated Development</li> <li>• State Environmental Planning Policy No 14 – Coastal Wetlands</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|                 | <ul style="list-style-type: none"> <li>• Route Selection</li> <li>• Noise and Amenity</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Summary:</b> | <p>The development application (DA) seeks consent for a road with ancillary works. The road has been known as the 'Byron Bay bypass' for some years (referred to in this report as the 'bypass' or 'road').</p> <p><u>Scope of works</u></p> <p>The bypass will be built in the Butler Street road reserve (including the road reserve southern extension), starting at the Shirley Street intersection in the north and finishing at Browning Street in the south. The bypass is also located across part of the Casino-Murwillumbah railway line corridor.</p> <p>The bypass's length is approximately 1.3 kilometres.</p> <p>The works include:</p> <ul style="list-style-type: none"> <li>• construction of new road with pavement width generally 10m comprising 2 x 3.5m lanes with 1.5m shoulder;</li> <li>• upgrading the existing roundabout at the Shirley Street / Lawson Street / Butler Street intersection;</li> <li>• construction of roundabouts at the Butler Street / Somerset Street intersection, the Jonson Street / Browning Street intersection, and the Butler Street and Browning Street intersection;</li> <li>• additional works such as drainage and infrastructure relocation, pedestrian crossings and pathways, line marking and acoustic fencing, installation of medians, provision of cycling facilities (2.5m wide) and landscaping;</li> <li>• new level rail crossing where Browning Street crosses the rail line;</li> <li>• removal of one Norfolk Pine near Police Station on Shirley Street;</li> <li>• possible removal of a number of trees opposite Butler Street Reserve;</li> <li>• removal of 1.21ha of native vegetation for southern exit at Butler Street and western exit at Browning Street.</li> </ul> <p><u>Environmental matters</u></p> <p>The bypass:</p> <ul style="list-style-type: none"> <li>• will be constructed partly within a wetland under <i>State Environmental Planning Policy No 14 – Coastal Wetlands</i> ('SEPP 14');</li> <li>• is designated development requiring the concurrence of the Director of the NSW Department of Planning &amp; Environment (DPE) in accordance with section 79B of the <i>Environmental Planning and Assessment Act 1979</i> ('EP&amp;A Act');</li> <li>• requires an environmental impact statement (EIS); and</li> <li>• is subject to a biobanking statement associated with the removal of approximately 1.21ha of native vegetation.</li> </ul> <p><u>Consultation with agencies</u></p> <p>The DA was forwarded to:</p> <ul style="list-style-type: none"> <li>• Sydney Rail on behalf of RailCorp (as per <i>State Environmental</i></li> </ul> |

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|                        | <p><i>Planning Policy (Infrastructure) 2007 (ISEPP) clauses 84-86);</i></p> <ul style="list-style-type: none"> <li>• Roads and Maritime Services (RMS) as integrated development under the <i>Roads Act 1993</i>;</li> <li>• Office of Environment and Heritage (Heritage Council) as integrated development under the <i>Heritage Act 1977</i>. OEH also received the DA due to the provisions of SEPP 14;</li> <li>• NSW Department of Primary Industries (Fisheries NSW) as integrated development under the <i>Fisheries Management Act 1994</i>;</li> <li>• A number of other State authorities and other potentially interested organisations including Transport for NSW, Office of Water, Environment Protection Authority, John Holland Rail Pty Ltd, Essential Energy, NTSCORP Ltd and Bundjalung of Byron Bay Aboriginal Corp (Arakwal).</li> </ul> <p><u>Public consultation</u></p> <p>The DA was publicly exhibited for a period of 35 days from 25 February to 1 April 2016. Council received forty two objections with one submission in support.</p> <p>A near identical development application for the bypass was submitted to Council on 30 June 2015 but was subsequently withdrawn on 12 February 2016. This development application was also publicly exhibited and 609 submissions were received (604 objection submissions and five in support).</p> <p>Council advised submitters to this development application that letters of support or objection would be considered with the assessment of the new DA.</p> <p>Issues raised during the public submission periods included:</p> <ul style="list-style-type: none"> <li>• the bypass location and length</li> <li>• edge effects on adjoining wetland;</li> <li>• noise and amenity issues;</li> <li>• potential impacts on the market site;</li> <li>• lack of assessment of alternative routes and whether rail corridor could be used;</li> <li>• loss of on street parking;</li> <li>• potential impact on value of adjoining residential land.</li> </ul> <p><u>Planning matters</u></p> <p>The proposed bypass is considered to be an appropriate response to site and locality characteristics and circumstances.</p> <p>The proposal appropriately addresses the provisions of relevant environmental planning instruments, including relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.</p> |
| <b>Recommendation:</b> | Pursuant to Section 80 of the EP&A Act 1979, Development Application 10.2016.77.1 for the Byron Bay Bypass be granted consent, subject to the conditions in Attachment 5.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## 1. CONTEXT

## 1.1 Background

A bypass for the Byron Bay town centre has been discussed since the 1980s. The *Byron Local Environmental Plan 1988* (BLEP 1988) (gazetted on 22 April 1988) included a reservation of land zoned '9(a) Proposed Road'. This zone extended from the southern end of the formed part of Butler Street to the intersection of Jonson Street and Browning Street. The current bypass proposal generally follows the alignment of this zone.

Provision of the 9(a) zone under the BLEP 1988 resulted in numerous efforts to realise the bypass:

- A traffic study conducted by TTM Consulting (1993) identified future road use needs for the Byron Bay urban area. Following the recommendations of the study, Council proposed five stages for construction of a town centre bypass.
- Council engaged PPK Consultants in 1996 to assess the options for a town centre bypass. PPK prepared associated concept plans and a report, including a species impact statement (SIS) and an environmental impact statement (EIS) for the proposed option. PPK's report (Rust PPK 1996) identified that the bypass options utilising Butler Street had the most potential to manage traffic demand.
- Following a review of the PPK reports, Council agreed that Butler Street 'option B' was the preferred option. This option proposed extending Butler Street along the boundary of the rail line (within the corridor), from the intersection of Butler Street and Shirley Street to the intersection of Jonson and Browning Streets (with a roundabout proposed for both intersections). The proposed development would extend for 980 metres, with two lanes in each direction. The EIS was completed by PPK in 2001. The EIS was submitted with a DA on 30 April 2001 and placed on public exhibition. This application was withdrawn by Council.
- In response, Council prepared an application for a modified 'mini bypass' allowing for a staged development and included a Bus Transit Station. A statement of environmental effects (SEE) was prepared by Parsons Brinckerhoff in 2003. The DA and SEE were submitted and placed on public display from 16 May to 16 June 2003. A number of issues were identified including impacts on flooding, noise mitigation, heritage matters, lack of consultation with NPWS, objections from Transport NSW.
- In 2008, Council and Roads and Maritime Services (RMS) commissioned the Main Road 545 Strategic Road Network Study (MR545 Study). The MR545 Study considered two rail crossing locations. The NSW Cross Border Transport Taskforce recommended that the feasibility of one be investigated. Council subsequently commenced investigations.
- During 2010, a trial of a rail crossing at the former emergency crossing site (immediately south of the rail station) was rejected by Council. In the same year Council formally withdrew the DA for the mini bypass option on the basis that a DA and SEE to Council was no longer the appropriate approval mechanism for the bypass proposal.
- At the end of 2011 Council held a public meeting to discuss bypass options. In response a Byron Bay Traffic and Parking Management (BBTPM) Project Reference Group (PRG) was formed. This group of residents, businesses and community representatives met in the first half of 2012 and provided several recommendations to Council.
- During 2013 staff reports and preliminary investigations were undertaken on bypass options. On 10 April 2014 Council resolved to pursue a full town centre bypass west of the rail corridor utilising Butler Street.

- DA10.2015.384.1 was submitted to Council on 30 June 2015, but was withdrawn on 12 February 2016 as it did not include the Bio Banking Agreement for the land to be offset in response to clearing.

## 1.2 Site description

The bypass is proposed to be constructed in (or partly in):

- Butler Street,
- the Butler Street extension,
- the Browning Street extension (including through part of the Casino-Murwillumbah railway line corridor),
- Shirley Street, Lawson Street, Somerset Street, Burns Street, Wentworth Street and Jonson Street (north and south of the intersection of the Johnson Street and Browning Street intersection),
- Lot 7 DP 258071 Jonson Street (owned by Council),
- Lot 8 DP 818197 Jonson Street (owned by Council); and
- Lot 6 Section 51 DP 758207 (No. 3) Browning Street (privately owned); Byron Bay.

The photos below indicate part of the bypass route.



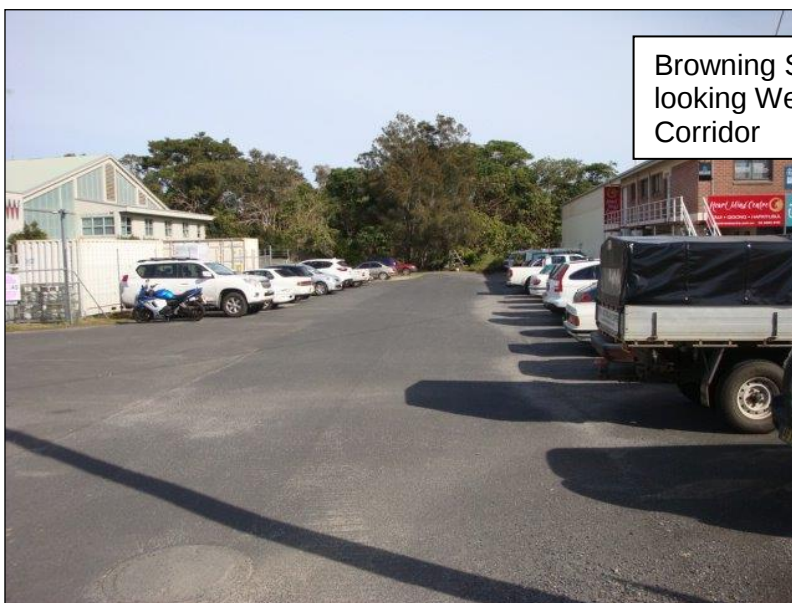
Butler Street looking south to the Burns Street Intersection



Butler Street looking North to the Butler Street Reserve



Butler Street looking North to the Buns Street Intersection



Browning Street extension looking West to the Railway Corridor

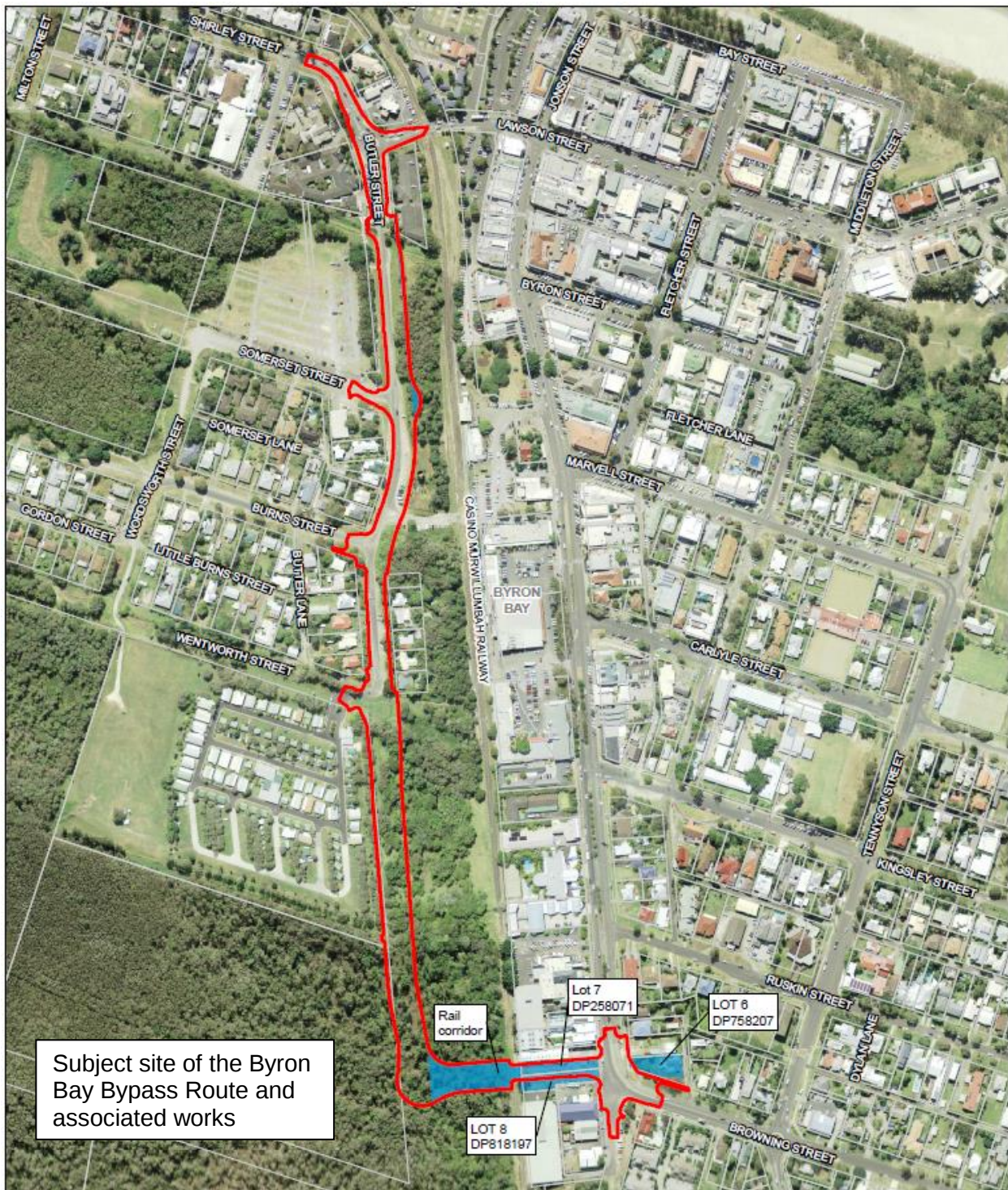
### 1.3 Description of the proposed development

The DA seeks consent for a road, including ancillary works known as the Byron Bay Bypass. The proposal includes the following:

- Upgrade the existing roundabout at the intersection of Shirley Street, Lawson Street and Butler Street; including road works and line marking extending a short distance into Shirley Street and a short distance into Lawson Street;
- Upgrade Butler Street to the southern extent of the existing road pavement (approximately 600m);
- Construct a new roundabout at the intersection of Butler Street and Somerset Street, including road works and line marking extending a short distance into Somerset Street;
- Upgrade the intersection of Butler Street and Burns Street; including road works and line marking extending a short distance into Burns Street;
- Construct a Butler Street and Wentworth Street intersection;
- Construct a new road within the Butler Street road reserve (the 'Butler Street extension') extending south from the southern extent of the existing Butler Street road pavement (approximately 600m);
- Construct a new roundabout at the intersection of Jonson Street and Browning Street; including road works and line marking extending a short distance to the north and south into Jonson Street and to the east into Browning Street;
- Construct a new road (the 'Browning Street extension') from the intersection of Jonson Street and Browning Street to the southern end of the Butler Street road reserve;
- Construct a new level rail crossing where the Browning Street extension crosses the Casino-Murwillumbah railway line;
- Construction of a new roundabout where the Butler Street and Browning Street extension intersect;
- Construct a 2.5m shared pathway along the eastern side of extended Butler Street and northern side of the Browning Street extension, connecting with existing paths near each end of the bypass, and including pedestrian crossings at a number of strategically located points along the bypass;
- Reconstruct the existing footpath on the north eastern side of the intersection of Jonson Street and Browning Street;
- Adjust the boundary of Lot 6 Section 51 DP 758207 (3 Browning Street) by 28m<sup>2</sup> to facilitate works at the Jonson and Browning Streets roundabouts. (Owners consent has been obtained and submitted with the development application); and
- Ancillary works including but not limited to: upgrade the existing stormwater drainage culvert under Butler Street between Lawson Street and Somerset Street; construct a new stormwater drainage culvert under Butler Street at its intersection with Wentworth Street; construct a new stormwater drainage culvert under Butler Street approximately 130m to the north of the Butler Street-Browning Street extension roundabout; vegetation removal including one Norfolk Pine near Byron Bay police station; possible removal of a small number of trees on the eastern side of

Butler Street (opposite the Butler Street Reserve); removal of 1.16ha of vegetation for the Butler Street extension and the Browning Street extension; and landscaping.

The route of the Byron Bay Bypass is indicated below.



## 2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS

### **Director Generals Requirements (Secretary's Environmental Assessment Requirements)**

Pursuant to the EP&A Act, the applicant sought the Director General's requirements for the EIS preparation (SEARs). The SEARs are attached to this report at Attachment 2.

Discussion of how the EIS has addressed the SEARs is included in this assessment.

### **Department of Environment and Planning (DPE) – concurrence authority**

The proposed bypass will be partly constructed within a SEPP 14 wetland. It is therefore designated development (SEPP 14, clause 7). As a result, it needs the concurrence of the Director of DPE (EP&A Act section 79B). The DA and EIS were forwarded to the Sydney and Grafton offices of DPE on the 22 February 2016 and concurrence was issued on 2 June 2016.

### **Sydney Trains (on behalf of RailCorp) – concurrence authority**

In accordance with ISEPP (clauses 84-86), the proposed railway level crossing and works adjacent to the non-operational Casino-Murwillumbah railway line require concurrence from the Chief Executive Officer of the Rail Authority.

RailCorp has delegated its functions under the ISEPP to Sydney Trains. Sydney Trains granted concurrence to the DA on 3 May 2016, subject to conditions of consent. A number of conditions are recommended to ensure compliance with the concurrence requirements.

### **Roads and Maritime Services (RMS) – integrated development approval authority**

The DA was forwarded to RMS as required under the *Roads Act 1993* (section 138). The RMS approved the works as detailed in the submitted plans on 23 May 2016. The following RMS recommendations have been incorporated into the proposed consent conditions:

- Regulatory traffic devices to be referred to Byron Shire Council Local Traffic Committee for advice.
- Pedestrian sight distance should be observed in accordance with Austroads Guide to Road Design Part 4A.
- Sight distance requirements at roundabouts should be observed in accordance with Austroads Guide to Road Design Part 4B.

### **Heritage Council of NSW – integrated development approval body**

The DA was forwarded to the Heritage Council as required under the *Heritage Act 1977* (section 58). This was because the development potentially impacts heritage items adjoining Butler Street.

The Heritage Council issued general terms of approval on 25 May 2016. A number of conditions of consent are recommended to ensure compliance with the general terms of approval.

### **Department of Primary Industries, Fisheries NSW – integrated development approval body**

The DA was forwarded to Fisheries NSW as required under the *Fisheries Management Act 1994* (sections 198– 201). Fisheries NSW have issued general terms of approval, which have been incorporated into the conditions of consent.

### **NSW Office of Environment and Heritage (OEH)**

The DA was forwarded to OEH for consideration. OEH has replied, including a number of issues to be addressed by the applicant and matters to be formulated into conditions of consent. This included appropriate assessment of ecological matters not covered by the Biobanking statement. These matters were addressed by the applicant and considered further by Council below.

### **Other Agency Referrals**

The DA was forwarded to a range of other agencies at the start of the exhibition period (under EPA Regulation clause 77):

### **Transport for NSW (TfNSW)**

The Agency provided comments from John Holland Rail Pty Ltd (JHR), which manages the Country Regional Network railway lines across NSW.

The following comments were made for Council to consider prior to the DA being determined and/or incorporated into the conditions of consent:

- Council should ensure that the crossing will be designed, approved and constructed in full consultation with JHR and in accordance with TfNSW (2014b) Construction of New Level Crossings Policy/Change in Use of a Level Crossing.
- Should the rail become operational again at any time, or should the rail corridor be required for the rail trails projects in the future, Council will need to enter into alternative arrangements with TfNSW.
- Prior to construction of a level crossing over the rail corridor, Council is required to enter into an interface agreement with John Holland Rail.
- An assessment of the potential contaminants in the rail corridor and possible impact upon construction and spoil disposal should be undertaken.
- An updated ecological assessment is to be prepared that considers the impacts of vegetation removal (if any) within the rail corridor as the previous ecological assessment is dated 2001.
- The need for ongoing access to the rail corridor for land owner staff and contractor vehicles.
- Drainage of water toward the rail corridor to ensure this does not exceed predevelopment levels.

The EIS advises the rail crossing will be in accordance with TfNSW requirements and discussions have commenced with JHR.

Conditions are recommended in relation to agreements with JHR and TfNSW to protect the asset should trains return to the north coast network and to facilitate access to the rail corridor for the land owner.

In relation to soil contamination, a preliminary assessment has been carried out addressing *State Environmental Planning Policy No 55 – Remediation of Land*. Conditions of consent are recommended for the preparation of a Contamination Assessment and Soil Management Plan for further testing and procedures to manage unexpected contamination.

Regarding ecological assessment, the proposal includes sufficient detail and assessment under Section 5A of the EPA Act 1979 and a biobanking statement issued for the development that addresses this matter. This is discussed in greater detail below in the body of the report. A detailed stormwater management plan is to be submitted at the construction stage to ensure stormwater does not impact on the rail asset. A Condition of consent is recommended to ensure compliance with this stormwater requirement of TfNSW.

### **Department of Primary Industries – Water**

The DA was forwarded to the DPI (Water) for comment, but no response was received.

### **Environment Protection Authority (EPA)**

The DA was forwarded to the EPA for comment, but no response was received.

### **Telstra**

The DA was forwarded to Telstra for comment, but no response was received. Notwithstanding this it will be responsibility of the applicant to protect existing infrastructure during the construction phase.

### **Essential Energy**

Essential Energy sent correspondence to Council advising they have no objection to the proposal, but noted that there are high and low voltage power lines within the development area, with any remediation works to be carried out by an appropriately qualified accredited service provider and in accordance with the requirements of Workcover.

### **NTSCORP Ltd**

Written notice of the DA was given to NTSCORP Ltd (the Native Title Service Provider for Aboriginal Traditional Owners in New South Wales and the Australian Capital Territory). No response was received.

### **Bundjalung of Byron Bay Aboriginal Corp (Arakwal)**

The DA was notified to Bundjalung of Byron Bay Aboriginal Corp (Arakwal). The proposal was also discussed with the Arakwal Advisory Committee (1 March 2016). It is noted the local Aboriginal community were consulted and involved with the preparation of the Cultural Heritage Assessment prepared by JP Collins Consultant Archaeologist. No formal response was received.

### **Byron Shire Council Local Traffic Committee (LTC)**

The DA was referred to the LTC which raised no objection to the proposed development.

### **Other referrals**

To assist Council with the assessment, Noise Measurements Services provided advice on noise mitigation matters and Deborah Wray Heritage Advisor provided advice on heritage matters. Their reports are attached to this assessment report at Attachment 3 and Attachment 4.

## **3. SECTION 79C MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES**

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, (EPA Act 1979) the following is a summary of the evaluation of the issues.

### **Section 79BA Consultation and development consent—certain bush fire prone land**

The proposed road is located in part on bushfire prone land. The provisions of this S.79BA do not apply. The road however will provide a means for the RFS to fight a bushfire should it occur on land surrounding the Butler Street extension. The road being sealed, level and accessible from two ends is generally consistent with the design provisions for roads in the RFS document Planning for Bushfire Protection

### **Section 79(1)(a) State Environmental Planning Policies**

#### **SEPP 14 Wetlands**

The proposed development is sited partly within SEPP 14 Wetlands. Development consent is required under Clause 7(1) of the SEPP being clearing and filling within a wetland.

For development consent to be granted the Director's (Secretary's) concurrence is required under Clause 7(2) of the SEPP. In considering whether to grant concurrence, the Director must consider:

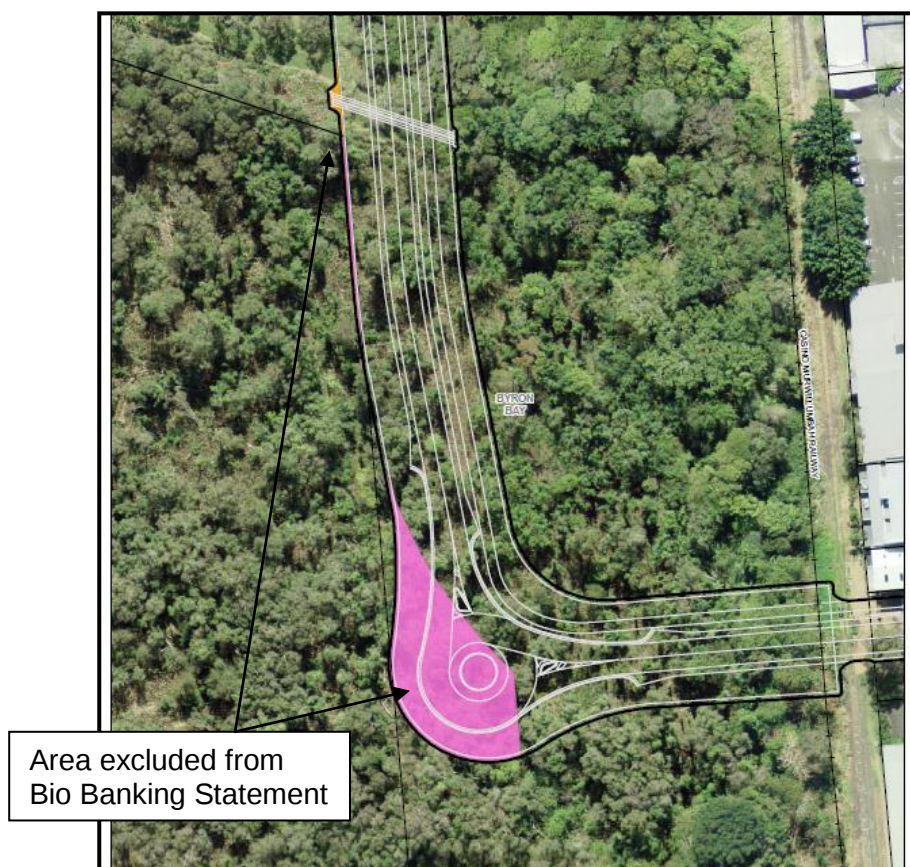
- (a) The environmental effects of the proposed development, including the effect of the proposed development on:

- (i) the growth of native plant communities,
- (ii) the survival of native wildlife populations,
- (iii) the provision and quality of habitats for both indigenous and migratory species,
- (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area, including salinity and water quality

**Comment:** The Secretary's concurrence under State Environmental Planning Policy No.14 Coastal Wetlands (SEPP 14) was granted on 2 June 2016 for the subject development application. The concurrence considered that the extent of works proposed is not likely to have a significant adverse impact on the condition or functioning of the SEPP 14 wetland provided the project is undertaken in accordance with Biobanking Statement ID 19 issued for the proposal and the additional attached conditions. The conditions state: (in italics below)

- *Additional Assessments of Significance under Section 5A of the Environmental Planning and Assessment Act 1979 are to be prepared for those threatened species, populations or ecological communities or their habitats that are known or predicted to occur within the subject site, but which lie outside the area subject to BioBanking Statement ID 19. These additional assessments are to be provided to the consent authority prior to determination of the Development Application*

**Comment:** Biobanking Statement ID 19 does not apply to land zoned 7(a) Wetland under Byron LEP 1988 and this area of the site is therefore subject to assessment under Section 5A of the EPA Act 1979. The area in question amounts to 1159.9m<sup>2</sup> and contains a swamp sclerophyll forest EEC with potential to provide habitat for a number of threatened flora and fauna species (see area highlighted pink and yellow in Figure below).



The environmental impact statement (EIS) prepared for the application (GHD January 2016) included Assessments of Significance (or '7-part tests') which addressed the 0.12 hectares of land that is not subject to Biobanking Statement ID 19 for the following species and community:

- Swamp Sclerophyll Forest endangered ecological community
- Mitchell's Rainforest Snail
- Black Bittern
- Pale-vented Bush Hen

Assessments of Significance have now been undertaken for an additional seven (7) flora and twelve (12) fauna species with potential to occur or to use the habitat at the site.

The proposal is considered unlikely to have a significant impact on these plant and animal species, pursuant to section 5A of the EP&A Act, because:

- The listed flora species have not been recorded at the site during survey.
- Only a relatively small amount (0.12 ha) of habitat for the listed species would be removed as a result of the proposal.
- The habitat to be removed is somewhat degraded due to weed infestation.
- Most of the fauna species listed are mobile birds and bats more likely to forage widely than to rely solely on the subject area.
- The proposal would not isolate any areas of habitat for these species within the study area or at a landscape scale because extensive areas of connective corridors, which would allow movement of these species to surrounding areas of suitable habitat (particularly along the drainage channel), are located to the south and west of the site.
- Mitigating measures are proposed, including the provision of culverts suitable for movement of fauna species, strict sediment and water quality controls, fauna fencing to avoid traffic impacts and weed and feral animal management.
- Expert pre-clearing surveys are proposed prior to clearing to retrieve and relocate any fauna species present within the corridor.
- Significant additional offsets are provided for target species within areas protected from future development impacts giving protection 'in-perpetuity'.

Further details regarding threatened species and ecological communities are discussed under the heading ***Significant effect on threatened species, populations or ecological communities, or their habitats.***

- *The biodiversity loss from within that part of SEPP 14 Coastal Wetland number 104 not subject to BioBanking Statement 19 is to be quantified using the BioBanking Credit Calculator V4.0 and the BioBanking Assessment Methodology. Once quantified, the number of credits required to offset this additional loss of biodiversity is to be retired along with the credit requirement of BioBanking Statement 19.*

**Comment:** The area not subject to BioBanking Statement ID 19 amounts to 1159.9m<sup>2</sup> and contains swamp sclerophyll forest EEC. Assessment of this area has been undertaken using the BioBanking Credit Calculator V4.0 and the BioBanking Assessment Methodology, with the result that an additional 7 Ecosystem credits are required to offset the impact. Given that the offset site has at least 8ha of Swamp Sclerophyll Forest additional to that required by Biobanking Statement ID 19, this condition will be more than satisfied at the offset site.

- *To mitigate potential operational impacts to flightless fauna, the proponent is to undertake further investigations during the detailed design phase in relation to the incorporation of above-surface culverts into the road structure to facilitate safer fauna movement between the eastern and western portions of the wetland.*

**Comment:** This issue will be considered in detail during the detailed design phase of the project.

- *Stormwater treatment appropriate to the sensitivity of the receiving wetland environment must*

*be undertaken during construction and operation. Consideration should be given to ensuring: no standing water; minimising habitat for cane toads; site specific water quality targets and appropriate water chemistry. Water quality improvement criteria is to be established on the basis of site specific water quality data and the biogeochemical requirements of the receiving wetland environment.*

**Comment:** In relation to ground and surface water characteristics, the bypass involves filling of part of the route and in particular the area zoned 7(a) Wetland and subject to SEPP 14. Appropriate culverts are to be installed to ensure stormwater will be able to flow under the bypass in existing drains and continue through to the Belongil Creek. Appropriate sedimentation and erosion control measures are to be installed to managed stormwater run-off during the construction period whilst potential contaminants such as fuels and oils from construction machinery will be carefully managed to prevent a potential incident affecting the wetland. Stormwater from the road surface once completed will be channelled into the same various drains via vegetated swales. Potential impacts on groundwater may occur with the installation of drainage culverts and other works involving excavation to a depth greater than 1 metre. It is considered such impacts would be of short duration from dewatering and excavation with such water and acid sulfate soils to be treated prior to release back into the environment.

- (b) Whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment

**Comment:** The proposal includes a range of mitigation measures to safeguard and protect the environment as summarised under Section 8 of the EIS Environmental Management and Monitoring. In terms of flora, fauna and biodiversity, a biobanking statement is in place to offset the impacts from clearing and loss of habitat for the road corridor. In relation to edge effects, the road has the potential to provide further access and intrusion into the wetland areas. This includes feral and domestic animals, potential for koalas to wander onto the road, and human impacts from rubbish dumping and illegal camping. It is recommended that koala fencing be erected along the western edge of the road from the Glen Villa Resort down to the Browning Street crossing of the rail corridor, and appropriate traffic signage be erected in terms of rubbish dumping, camping and parking along the road verge.

- (c) Whether carrying out the development would be consistent with the aim of this policy

**Comment:** The aim of this policy is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State. The proposal requires the removal of a small area of wetland for the construction of a road adjacent to an existing rail corridor. The purpose of the road is to improve traffic circulation through the town centre with flow on impacts economically and socially. The bulk of the works in the wetland are covered by the offsets in the Biobanking statement ID 19, whilst the impacts in terms of the small area not covered are not significant and on balance are unlikely to have a detrimental impact on the subject wetland. It is considered the proposal is consistent with the aim of the policy.

- (d) The objectives and major goals of the “National Conservation Strategy for Australia” (as set forth in the second edition of a paper prepared by the Commonwealth Department of Home Affairs and Environment for comment at the National Conference on Conservation held in June 1983, and published in 1984 by the Australian Government Publishing Service) in so far as they relate to wetlands and the conservation of “living resources” generally, copies of which are deposited in the office of the Department

**Comment:** It is considered the proposal is satisfactory in terms of the above strategy. The EIS notes there are no specific aims, actions, objectives or major goals of the National Conservation Strategy for Australia that pertain specifically to the proposal or the subject site.

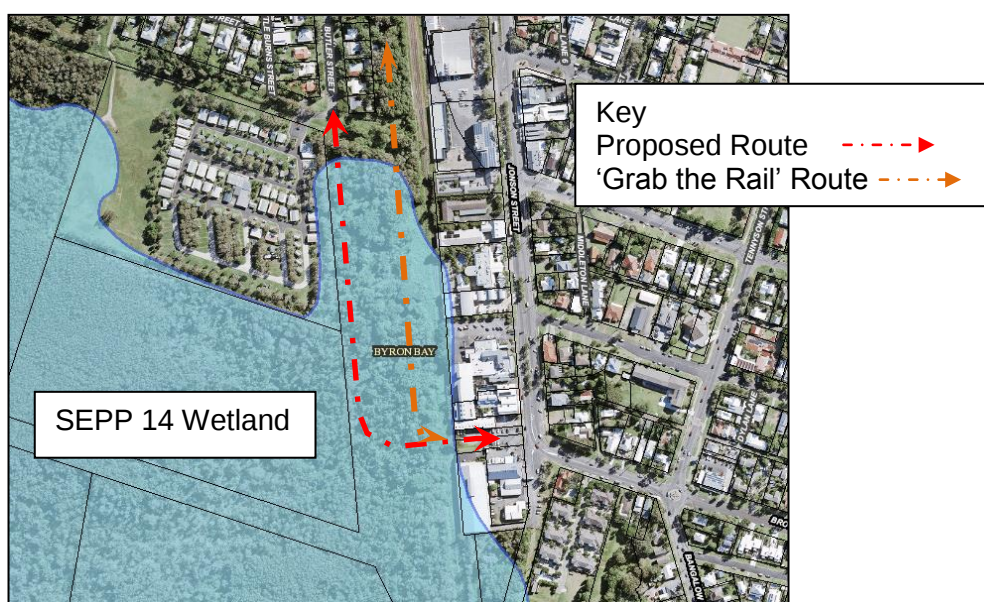
- (e) Whether consideration has been given to establish whether any feasible alternatives exist to the carrying out of the proposed development (either on other land or by other methods) and if so, the reasons given for choosing the proposed development

**Comment:** A range of alternatives have been considered within the EIS in terms of alternate routes. The subject route is the preferred option by the applicant with endorsement from Council. Strong representation has been made by members of the public in terms of placing the bypass predominantly in the rail corridor colloquially called the 'Grab the Rail' route.

The location of this alternate route is also within the SEPP 14 Wetland and would still require clearing of vegetation. Further as the route follows the rail corridor to the north this would require additional clearing of native vegetation, before connecting with Butler Street near the Byron Street drainage reserve of up to 0.8 ha. Council's mapping indicates this is a Coastal Swamp forest and from inspection, it appears to be heavily dominated with paperbarks.

The EIS provides a detailed explanation as to why this route is not the preferred option including a reference to correspondence from the NSW Transport Minister that advised Council that the rail corridor was inappropriate for multi modal transport. Significantly the rail corridor is not owned or managed by Council, and no final decision has been made in terms of public transport returning to the rail corridor.

Therefore full consideration has been given as to whether feasible alternatives to the proposal exist however for the reasons detailed above the "Grab the Rail" route alternative was considered as causing a greater impact to wetlands and less appropriate than the current proposal.



- (f) Any representations made by the Director of National Parks and Wildlife in relation to the development application

**Comment:** The proposal was referred to the OEH for comment who also requested further consideration of flora and fauna impacts under Section 5A of the EPA Act 1979 identical to the DPE concurrence conditions as discussed above. The OEH have also recommended a number of conditions should be imposed relating to:

- further flood modelling,
- acid sulfate soils management,
- procedures and protocols for Aboriginal objects as per the NPW Act 1974,
- provision of a Construction and Environmental Management Plan as per the EIS, and
- ensure the Cumbebin Swamp Nature Reserve Management Committee be invited to participate in any relevant stakeholder groups established for the Bypass.

Conditions of consent have been recommended to reflect the recommendations of the OEH

- (g) Any wetlands surrounding the land to which the development application relates and appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those surrounding wetlands

**Comment:** The bypass is surrounded by wetlands predominantly to the south and west of the site. Appropriate conditions of consent will be recommended to mitigate and manage impacts on the wetland and surrounding environment.

In addition to the Director concurrence, the DA was also referred to the Director of OEH (National Parks and Wildlife Service) as per clause 8 of the SEPP14 for notification purposes.

For the reasons above, it is considered the SEPP 14 provisions have been satisfied.

#### **SEPP 26 – Littoral Rainforest**

The proposed road does not impact on littoral rainforest identified under SEPP. It is considered SEPP 26 does not apply.

#### **SEPP 44 – Koala Habitat Protection**

The subject site does not constitute core or potential koala habitat, and as such further consideration of the development under SEPP 44 is not required. Koalas have been recorded though in the urban areas of Byron Bay (Woolworths Car Park and elsewhere) and potentially koalas may attempt to move from Cumbebin Swamp and adjacent forested areas across the bypass. It is recommended that the southern section of the road incorporate in part a koala exclusion fence from the Glen Villa resort to the railway crossing to restrict koalas from crossing the road.

#### **SEPP 55 – Remediation of Contaminated Lands**

A preliminary site contamination assessment was submitted with the DA. The assessment found the likelihood for chemical contamination to be present within the proposal area to be low with the exception of potential impacts to soil and groundwater within the vicinity of the fuel storage facilities associated with the Caltex service station and the hardware store. Potential impacts may also be present within the former butter factory. Other potential contamination impacts within the proposal area are possible from fill materials, illegal dumping, railway activities, past weed and pest control.

Based on the above assessment, the following measures are recommended to be undertaken to address the identified issues:

- Complete limited soil investigations targeting potential contamination sources including areas of fill, illegal dumping of materials, the railway line and current fuel facilities located to the north and south east of the proposal. Groundwater investigations may also be required if soil impacts are identified.
- Preparation of a contaminated soil management plan is recommended to detail excavation, segregation, stockpiling, validation and disposal requirements for contaminated materials. The plan will include contingency plans for excavation/remediation of unexpected finds / additional contaminated soils.

It is considered these management measures are warranted and appropriate conditions of consent are recommended.

#### **SEPP 71 – Coastal Protection**

Clause 8 of the SEPP establishes a number of heads of consideration for development to be considered against, plus additional measures for public access, effluent disposal and stormwater management under Clauses 14, 15 and 16.

In summary the proposed development was considered and is satisfactory in terms of the clause 8 matters. Specifically, the development:

- is landward of immediate coastal erosion lines under DCP 2010 and DCP 2014;
- will not have any detrimental impact on the amenity of the coastal foreshore;
- will not impact the scenic amenity of the coastline;
- will not create land use conflicts between land based and water based activities, will not impact on marine habitats, or affect public access to the foreshore;
- complies with and meets the aims of the Policy.

Further, issues of significance related to threatened species have been addressed by the Biobanking Statement ID 19 and via the assessment report under the EP&A Act (section 5A). Appropriate investigations have also been carried out in terms of Aboriginal heritage.

The proposal does not and is not likely to result in the impeding or diminishing of physical land based rights of access to the public to or along the coastal foreshore.

The bypass does not generate any effluent; whilst stormwater run-off during the construction phase and after completion is to be appropriately managed through sedimentation and erosion control measures and other treatment measures. Appropriate conditions of consent are recommended for the development.

### SEPP (Infrastructure) 2007

Clauses 84-86 all apply to the DA. As noted earlier, rail authority concurrence has been obtained for the bypass.

## Section 79C(1)(a) Local Environmental Plans

### Byron Local Environmental Plan 2014



Mapping extract showing Byron LEP 2014 Zone lines and general route of bypass.

**Relevant zones:** R2 Low Density Residential, B2 Local Centre, SP2 Infrastructure (Rail Corridor), RE1 Public Recreation.

## Definitions

**Road** – means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

| LEP Requirement                                                                  | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <b>Clause 2.3: Zone Objectives</b><br><br><b>R2 Low Density Residential Zone</b> | <p>The zone objectives state:</p> <ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a low density residential environment.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul> <p>The proposed road will service the day to day needs of the community, providing access to residents and a more efficient means of traversing Byron Bay. The proposed road meets the objectives of the zone and is also a permissible use in the R2 Zone.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>B2 Local Centre Zone</b>                                                      | <p>The zone objectives state:</p> <ul style="list-style-type: none"> <li>• To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</li> <li>• To encourage employment opportunities in accessible locations.</li> <li>• To maximise public transport patronage and encourage walking and cycling.</li> <li>• To encourage vibrant centres by allowing residential and tourist and visitor accommodation above commercial premises.</li> </ul> <p>The proposed road will service the day to day needs of the community, providing a more efficient means of traversing Byron Bay. The proposed road also includes a pedestrian cycling path which encourages walking and cycling. The road will also enable through traffic to avoid the Byron Bay business centre and enable it to function with less traffic congestion. The proposed road is consistent with the objectives of the B2 zone and is permissible with consent.</p> |
| <b>SP2 Infrastructure (Rail Corridor) Zone</b>                                   | <p>The zone objectives state:</p> <ul style="list-style-type: none"> <li>• To provide for infrastructure and related uses.</li> <li>• To prevent development that is not compatible with or that may detract from the provision of infrastructure.</li> </ul> <p>The proposed road has been carefully designed having regard to State Rail Infrastructure. Owners consent has been granted to construct the road within the State Rail Corridor and further referral and comment from the representatives of State Rail has been obtained with no objection to the proposal. The proposal is consistent with the objectives of the SP2 zone and is a permissible with consent.</p>                                                                                                                                                                                                                                                                                                                                               |
| <b>Zone RE1 Public Recreation</b>                                                | <p>The zone objectives state:</p> <ul style="list-style-type: none"> <li>• To enable land to be used for public open space or recreational purposes.</li> <li>• To provide a range of recreational settings and activities and compatible</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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|                                                                | <p>land uses.</p> <ul style="list-style-type: none"> <li>• To protect and enhance the natural environment for recreational purposes.</li> </ul> <p>The proposed road is adjacent to the Butler Street Reserve which is zoned RE1 and will upgrade an existing section of constructed road. The works as proposed do not extend into the reserve itself, but two new pedestrian crossings are proposed to provide access for pedestrians into the reserve across the road. Some street trees may be removed from this area to facilitate the road upgrade but extensive street plantings and other landscaping will more than compensate for the removal of this vegetation. Roads are permissible with consent in the zone. The proposal is consistent with the objectives of the RE1 zone and is permissible with consent.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Clause 5.5:<br/>Development within<br/>the coastal zone</b> | <p>The proposal is a land within the coastal zone. Consideration has been given to the matters in clause 5.5(2) The proposed road will not impact on public access to the coastal foreshore, will not adversely the scenic qualities of the coast, will not overshadow or impact on the amenity the coastal foreshore reserve, will not discharge untreated effluent or stormwater into coastal waters, and will not be significantly affected by coastal hazards, create a significant impact on coastal hazards or increase the risk of a coastal hazard in relation to other land.</p> <p>The development does propose to clear native vegetation, however these impacts are being mitigated by the biobanking statement and other measures as discussed in the report. After considering each of the matters required by clause 5.5(2) there is satisfaction that the proposed development will not</p> <p>(a) will not impede or diminish, physical, land-based right of access of the public to or along the coastal foreshore, and</p> <p>(b) will not generate effluent that will have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(c) will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(d) will not be significantly affected by coastal hazards, or have a significant impact on coastal hazards, or increase the risk of coastal hazards in relation to any other land.</p> <p>It is considered the proposal is satisfactory in terms of the matters listed under Clause 5.5(3)</p> |
| <b>Clause 5.9:<br/>Preservation of Trees<br/>or Vegetation</b> | <p>Development consent is sought for the removal of trees pursuant to this clause being trees to which Chapter B2 of DCP 2014 applies.. This includes the removal of one Norfolk Pine near the police station on Shirley Street, a small number of trees opposite Butler Street Reserve (on the eastern side of the road). Concept Landscaping plans submitted with the DA indicate a detailed plan to plant a number of street trees and shrubs which will more than compensate for the removal of trees as proposed. This will preserve the amenity of the area including biodiversity values and it is therefore</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

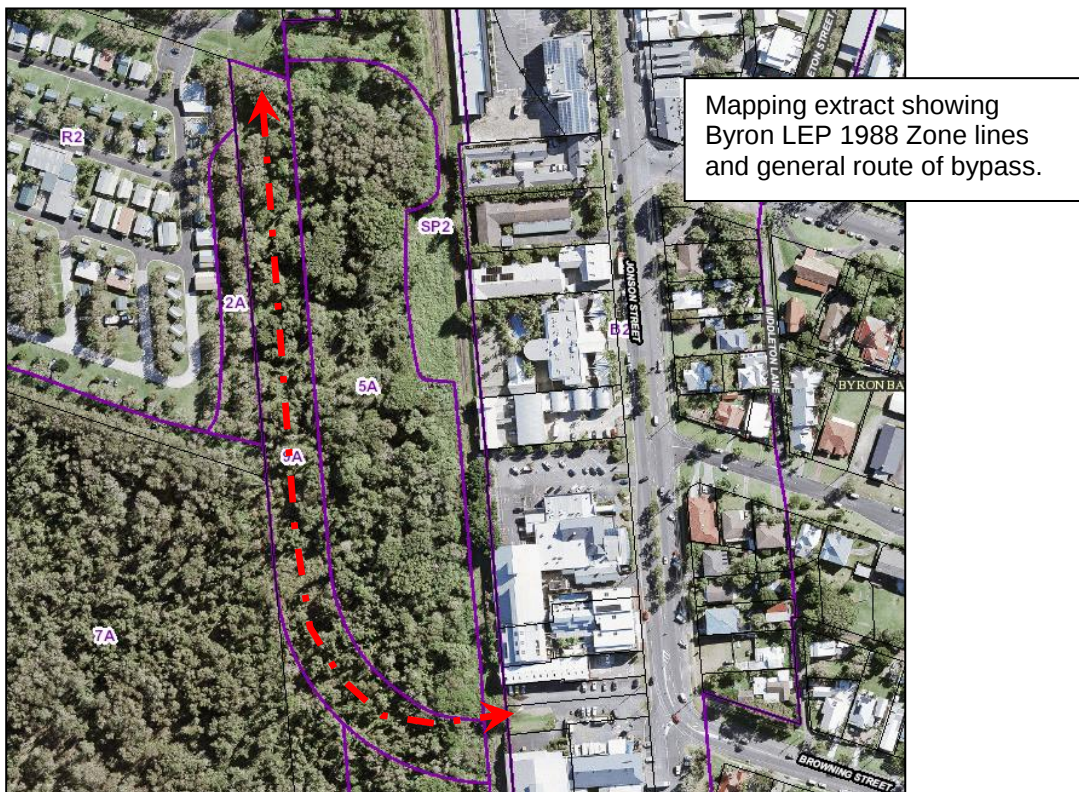
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|                                    | recommended that approval be given to remove the identified trees.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>5.10: Heritage conservation</b> | <p>The proposed road traverses a heritage conservation area containing a number of heritage items including the police station courthouse and Norfolk Island Pines, buildings within the railway station precinct, four dwellings/ cottages and former Norco butter factory. Two heritage assessments have been submitted addressing Aboriginal cultural heritage and European heritage. The proposal was considered by Council's Heritage Advisor and her assessment report is attached to this report.</p> <p>The road will have a direct impact on one Norfolk Island Pine with its removal and compensatory street planting proposed. Other indirect impacts on European Heritage associated with construction activities include vibration and compaction affecting the brick work of buildings and structures and the roots of the remaining trees. Mitigation measures are proposed to record, monitor and address these issues during the construction phase of the road.</p> <p>There is potential of noise fencing and other built measures to have an impact on heritage items in this area if noise mitigation measures are not designed with care. The applicant has recommended that such measures be carefully carried out and for other measures in the design such as road surfaces and landscaping to mitigate vehicle noise be considered.</p> <p>In terms of Aboriginal heritage, the bypass does not include any items or objects of significance, but there is potential for earthworks to uncover such items or objects. The proposal was referred to the local Aboriginal community and their representatives NTSCORP for comment. But no formal response was received.</p> <p>The proposal is considered satisfactory subject to conditions of consent.</p> |
| <b>6.1: Acid sulfate soils</b>     | <p>The LEP indicates the site contains predominantly class 2 and 3 acid sulfate soils (ASS) with a small area of class 5 at the intersection of Browning and Jonson Streets.</p> <p>Earthworks associated with the development have the potential to unearth ASS whilst some dewatering may also be required. An Acid Sulfate Soils Management Plan and Assessment has carried out by Coffey Geotechnics and included in the EIS finding ASS generally 1 metre below the ground surface. In this regard the proposed bypass predominantly will place fill on the site as opposed to extensive excavation to lower the site. Impacts from ASS in general will be of a short duration and will predominantly arise with excavations associated with the installation of the culverts under the Butler Street sections of the road.</p> <p>OEH have also raised two matters for further consideration with the preparation of the final ASS Management Plan, being the need for further testing of deeper clays to ascertain liming rates, and further verification of pH levels at borehole 6. (It is recommended that the ASS management plan when prepared include appropriate mitigation measures as part of the construction environment management plan)</p> <p>Appropriate conditions of consent are recommended to ensure ASS and groundwater is effectively managed in accordance with the Coffey report and the ASS Manual. Conditions are also recommended for dewatering if required, and for any trenching to be limited in length and not left open overnight in terms of managing ASS. The proposal is considered acceptable in terms of Clause 6.1 of the LEP subject to conditions of consent.</p>                                                                     |

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| <b>6.2: Earthworks</b>     | <p>The proposed road requires filling in the southern half of the route and some minor cutting for drainage and culverts to be installed under the road pavement. The EIS estimates approximately 4,100 cubic metres of clean fill will be required for the road and if possible will be sourced from the local area. Potential impacts include disturbing relics, sedimentation and run-off on adjoining properties and the surrounding wetland areas.</p> <p>Consideration has been given to all matters detailed in clause 6.2(3).</p> <p>As discussed above detailed heritage assessments have been completed whereby it was considered the site of the road is unlikely to impact on Aboriginal objects, with mitigation measures proposed should any items (Aboriginal and European) be unearthed during excavation works.</p> <p>In relation to environmental impacts from sedimentation and runoff, conditions of consent are recommended for treating ASS, installation of sedimentation and erosion control measures, stabilising disturbed sites, and appropriate siting of any stockpile areas.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>6.3: Flood planning</b> | <p>The proposed road is located on land which is in part prone to flooding.</p> <p>The proposal involves filling on flood prone land to bring the road up to a suitable level and to provide a high degree of flood immunity with the pavement set at 300mm above the 1:100 flood.</p> <p>The EIS indicates the filling will consume approximately 0.06% of the storage volume in the surrounding flood plain and a maximum increase in the height of flood waters by 1cm. It is considered the proposal will not significantly affect surrounding properties from changes to flood behaviour, is compatible with the flood hazard of the land, and will provide a means of access through Byron Bay in the event of a flood.</p> <p>In relation to stormwater run-off, the proposed road equates to 4800m<sup>2</sup> compared to 30km<sup>2</sup> for the Cumbebin Swamp. Accordingly, no adverse impacts are anticipated from the road once completed from run-off on the receiving environment. Appropriate conditions of consent are recommended in relation to sedimentation and erosion controls during construction and for the installation of appropriate stormwater management measures.</p> <p>It is considered that the proposal is:</p> <ul style="list-style-type: none"> <li>• compatible with the flood hazard of the land,</li> <li>• will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,</li> <li>• incorporates appropriate measures to manage risk to life from flood by being raised above the 1:100 year flood level,</li> <li>• will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</li> <li>• is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</li> </ul> <p>and satisfies the provision under Clause 6.3(3)</p> <p>Consideration was also given to the matters under Clause 6.3(4)</p> <p>(a) the proximity of the development to the current flood planning area,</p> <p>(b) the intended design life and scale of the development,</p> |

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                | <p>(c) the sensitivity of the development in relation to managing the risk to life from any flood,</p> <p>(d) the potential to modify, relocate or remove the development.</p> <p>As discussed above the road is situated above the 1:100 year level flood. Potential would exist for Council to raise the road higher if required in managing climate change scenarios at later date. The proposal is considered acceptable in terms of the provisions of this clause.</p>                                                                                                                                   |
| <b>6.6: Essential Services</b> | <p>The proposed road is an essential piece of public infrastructure to serve the transport needs of the Shire's residents and businesses, and for visitors to Byron Bay. The DA was referred to Telstra and Essential Energy for comment, with Essential Energy responding that it is the responsibility of the applicant to protect their assets during the construction phase.</p> <p>The proposal demonstrates that adequate arrangements have been made for the supply of essential services as detailed in clause 6.6 when they are required.</p> <p>The proposal raises no issues under Clause 6.6.</p> |

## Byron Local Environmental Plan 1988

**Relevant zones:** No. 2(a) (Residential Zone), No. 5(a) (Special Uses Zone) (Railway), No. 7(a) (Wetlands Zone) and No. 9(a) (Proposed Road Zone) applies as some of the land the subject of the proposal is Deferred matter under BLEP 2014.



## Relevant LEP definitions

**Utility installation** – means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

**Public utility undertaking** – means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, Government department, corporation, firm or authority carrying on the undertaking.

**Road transport** – means the carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

The proposed development is permissible with development consent in the following zones:

Zone No. 5(a) – as a ‘road’ or ‘utility installation’;  
Zone No. 7(a) – as a ‘road’ or ‘utility installation’; and  
Zone No. 9(a) – as a ‘road’ or ‘utility installation’.

The savings provisions under clause 62 list development under schedule 12 as not being prohibited or requiring consent. Development by a council for a Road is such a use.

| LEP Requirement                                            | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Zone No. 5(a)<br/>(Special Uses Zone)<br/>(Railway)</b> | <p>The zone objectives state:</p> <p><i>The objectives of this zone is to designate land for certain community facilities and services including areas for off-street parking in private ownership.</i></p> <p>A small section of the proposed road crosses into the 5(a) Zone before it crosses into the SP2 Zone under Byron LEP 2014. In the event that trains return to the North Coast Rail Corridor, where the road crosses the rail corridor at Browning Street, this would need to be converted to a level crossing. The proposal does not prevent that from happening. Being a road for a public purpose, the proposal is consistent with the objectives of the zone and is permissible with consent.</p> |
| <b>Zone No. 7(a)<br/>(Wetlands Zone)</b>                   | <p>The objectives of the 7(a) Zone state:</p> <ul style="list-style-type: none"><li>(a) to identify all lands covered by State Environmental Planning Policy No 14—Coastal Wetlands,</li><li>(b) to identify and preserve estuaries and wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish,</li><li>(c) to prohibit development within the zone that is likely to have a</li></ul>                                                                                                                                                                                                                                                                     |

| LEP Requirement                                                                                          | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                          | <p>detrimental effect on the habitat or landscape qualities or the flood mitigation function of the wetlands,</p> <p>(d) to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas, and</p> <p>(e) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.</p> <p>A small element of the bypass crosses into the 7(a) zone at the roundabout intersection of Browning and Butler Streets. It is considered the carrying out of the development is consistent with the objectives of the 7(a) Zone as:</p> <p>(a) The provisions of SEPP 14 are considered as part of this proposal and necessitating this DA as designated development. It is considered that the proposal complies with the relevant provisions of SEPP14.</p> <p>(b) The DA addresses the preservation of estuaries and wetlands and allowing them to continue to function as feeding and breeding areas for wildlife, shellfish and fish.</p> <p>(c) Any detrimental effects of the road on the habitat or landscape qualities or the flood mitigation function of the wetlands are addressed by the DA.</p> <p>(d) The road is a type of public work permitted in the Zone and the DA addresses any significant effects on the habitat or landscape qualities of the wetland and other significant coastal habitat areas. Conditions of consent are recommended in terms of edge effects.</p> <p>(e) The proposed road includes a concept landscape plan dominated by native species of trees shrubs and grasses.</p> <p>(f) It is not considered that the proposal will have a significant detrimental effect on the habitat or landscape qualities of the wetlands.</p> |
| <b>Zone No. 9(a)<br/>(Proposed Road Zone)</b>                                                            | <p>The objectives of the Zone state</p> <p><i>The objective of this zone is to set aside land (being land that the council or a Government instrumentality intends to acquire) for various proposed roads.</i></p> <p>The bypass is consistent with the objective of the zone. Roads are permissible with consent in the zone.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Clauses 2 &amp; 2A(2):<br/>Consistent with the aim, objectives and guiding principles of LEP 1988</b> | <p>Clause 2 of Byron LEP contains an Aim, Objectives and Guiding Principles. The consent authority needs to be satisfied the development is consistent with these prior to issuing development consent.</p> <p>The development has been carefully considered in terms of its impacts on the built and natural environment and the amenity of the locality where the road will be situated. Ecologically, a detailed environmental assessment has been carried out in terms of impacts on threatened species with a Bio Banking Statement approved and additional offsets to be provided. Other expert reports have also been submitted addressing acid sulfate soils, soil contamination, flooding, heritage, noise impacts and the like. It is considered that sufficient information has been submitted to enable a decision to be made, with impacts able to be ameliorated.</p> <p>The bypass has been proposed for more than a generation, and was identified in the Byron LEP 1988 when it was first gazetted. It is considered unreasonable for the bypass to be deferred for another generation in terms of intergenerational equity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

| LEP Requirement                                                   | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                   | <p>In terms of pricing and valuation, the road is to be constructed by Council. Ongoing maintenance will be Council's responsibility with funding coming generally from a range of income sources (rates, grants etc). A range of measures are proposed to mitigate and minimise waste including sedimentation and erosion control provisions and a site waste minimisation plan. Where possible, waste generated from the development will be recycled.</p> <p>The bypass is considered to be a necessary piece of infrastructure to improve traffic circulation within Byron Bay and to remove traffic from the business district that has no need to enter into this area. Economically this should provide benefits to the CBD improving its functionality and traffic amenity with a reduction in congestion, whilst benefitting the residents of Byron Shire who need to traverse the town centre on a daily basis.</p> <p>Finally, the assessment of this development application has been carried with an exhibition period of 35 days and an early exhibition period last year for the withdrawn application. The determination of the application is by the Joint Regional Planning Panel at a meeting open to the public. Further, as discussed above the route of the bypass has been in the public domain since 1988, with other references to the bypass noted in the 2002 Byron Bay and Suffolk Park Strategy and Council's Community Strategic Plan 2022.</p> <p>It is considered that the proposal is satisfactory in terms of the Aim, Objectives and guiding principles under the Clause 2 of Byron LEP 1988.</p> <p><b>2002 Byron Bay and Suffolk Park Strategy</b><br/>The bypass is mentioned briefly in the 2002 Byron Bay and Suffolk Park Strategy as a long term goal:</p> <p><i>The construction of a CBD bypass will also be required to provide an alternative route for through traffic and to facilitate more efficient access to and from the CBD.</i></p> <p>The proposal raises no issues in terms of the strategy.</p> <p><b>Biodiversity Conservation Strategy</b><br/>This strategy includes a no net vegetation loss policy based on three principals of avoiding impacts, minimising impacts and compensating for impacts. The proposal in its route selection will utilise an existing Butler Street road reserve but will require clearing for the southern part of the route of native vegetation. The alternate "Grab the Rail" route would require additional clearing of native vegetation so in using Butler Street assists with avoiding and minimising impacts. The application includes a Bio Banking Statement ID 19 with additional offsets required to compensate for vegetation to be removed. It is considered the proposal is consistent with the Strategy.</p> |
| <p><b>Clause 24:<br/>Development of<br/>flood liable land</b></p> | <p>Part of the bypass is proposed on flood liable land. The EIS indicates the road due to filling proposed will cause flood waters to rise by as much as 1 cm around Wentworth Street and less than 1 cm around the southern ends of the Bypass. This southern end of the Bypass is where Byron LEP 1988 predominantly applies. Although unlikely to impact on existing urban development such as housing or commercial premises, any increase in flood waters caused by filling would be inconsistent with clauses 24(3a)(i) and (ii). This requires no restriction to flow characteristics and no increase in flooding</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| LEP Requirement                                                   | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                   | <p>of adjacent lands.</p> <p>The matter was raised with the applicant who has advised that further flood modelling will be carried out with preparation of detailed design plans for the road as part of the construction certificate application. In terms of achieving a neutral impact on flooding it is considered the proposed road can be designed with a suitable number of culverts and other measures (eg use a bridge type platform instead of culverts over the drains) to eliminate any potential flood impacts and to satisfy Clause 24 so that the proposal will not restrict the flow characteristics of flood waters, will not increase the level of flooding on the land in the vicinity, the road is capable of withstanding flooding and the road is adequately flood proofed.</p> <p>Should the development be approved the following condition of consent is recommended to ensure that Clause 24 is complied with:</p> <p><i>Prior to the commencement of construction, the Proponent shall ensure that the project does not restrict the flow characteristics of flood waters and <b>does not increase the level of flooding</b> on other land in the vicinity. Detailed flood modelling of the proposal must be undertaken during the detailed design stage to confirm the sizing of the proposed culverts and other design components of the road, to demonstrate the above criteria.</i></p> |
| <p><b>Clause 36:</b><br/><b>Development adjoining wetland</b></p> | <p>This clause applies to land adjoining or contiguous to land within Zone No 7(a) and consent is required to clear, drain, excavate or fill land to which this clause applies. The consent authority is to consider impacts on flora and fauna in the wetland, the water table and other effects on the wetland.</p> <p>The applicant has submitted a detailed assessment of the impacts the proposal will have on flora and fauna, the water table and other impacts such as acid sulfate soils, stormwater runoff and sedimentation in the wetland. It is considered such impacts can be adequately managed and mitigated and conditions of approval are recommended.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Clause 45:</b><br/><b>Provision of services</b></p>         | <p>The proposed development does not rely upon water or sewer infrastructure services. Stormwater infrastructure is required to convey run-off into the local stormwater systems. Generally kerb and gutter and stormwater channels are proposed to direct water from the road to three main channels which flow westwards through Cumbebin Swamp and into the Belongil Creek.</p> <p>Other works proposed include constructing new culverts in the Butler Street alignment at the Butler Street Reserve, Wentworth Street and further to the South opposite the Byron Bay Services Club. The proposal raises no issues in terms of the clause and it is considered that adequate arrangements have been made for the provision of drainage to the land.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Clause 52:</b><br/><b>Tree preservation</b></p>             | <p>The DA seeks consent to tree removal as follows:</p> <ul style="list-style-type: none"> <li>• Removal of one Norfolk Pine near the police station on Shirley Street. This tree is within the LEP 2014 part of the site.</li> <li>• Possible removal of a small number of trees opposite Butler Street Reserve (on the eastern side of the road). The number that would be removed, if any, would be confirmed during detailed design. These trees are within the LEP 2014 part of the site.</li> <li>• Removal of 1.16 hectares of vegetation for the southern extension of Butler Street and the western extension of Browning Street. This vegetation is within the LEP 2014 and LEP 1988 parts of the site.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| LEP Requirement                                                                         | Comment                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                         | The proposal is consistent with the clause with appropriate compensation and offset measures are proposed to mitigate impacts. The proposal is considered satisfactory subject to conditions of consent.                                           |
| <b>Clause 63: Development on land identified on the acid sulfate soils planning map</b> | As per the discussion under <i>Byron LEP 2014</i> , ASS has been satisfactorily addressed subject to conditions of consent. Please see comments concerning clause 6.1 of BLEP 2014 which also apply to that part of the land subject to BLEP 1988. |

#### **Section 79C(1)(a)(ii) Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority**

There are no draft environmental planning instruments applicable to this development.

#### **Section 79C(1)(a)(iii) Development Control Plans**

##### **Development Control Plan 2014**

*Byron Shire Development Control Plan 2014* (DCP 2014) applies to the land to which LEP 2014 applies. The following comments are provided on the relevant chapters of DCP 2014 where applicable in terms of the proposed road.

##### **Chapter B2 – Preservation of Trees and Other Vegetation**

The DA addresses the provisions of B2 for the vegetation to be removed. Detailed flora and fauna assessment has been submitted with the DA which includes details of a biobanking statement issued under Threatened Species Conservation Act 1995. The DA also addresses some 1200m<sup>2</sup> of vegetation not covered by the biobanking statement. It is considered that environmental impacts associated with the tree and vegetation removal will be adequately catered for in terms of compensatory plantings and new landscaping within the road reserve.

##### **Chapter B3 – Services**

Existing services which may be impacted upon the proposal are either to be protected or relocated during the construction phase of the development. This includes power and telecommunications, water, sewer and stormwater services. The road itself, and associated stormwater and drainage services, have been designed with regards to the provisions of Chapter B3. Conditions of consent are recommended requiring detailed engineering plans to be prepared addressing a range of matters including service relocation.

##### **Chapter B4 – Traffic Planning, Vehicle Parking, Circulation and Access**

A traffic impact assessment has been completed and submitted with the DA. The assessment found the proposed road will redirect between 3200 and 4400 vehicles per day around the Byron Bay town centre and reduce congestion in the CBD and providing for a moderate increase in safety and amenity for Jonson Street and a reduction in travel times for through traffic. The proposal is consistent with the provisions of Chapter B4.

##### **Chapter B5 – Providing for Cycling**

The DA includes provision of a 2.5m wide concrete shared path (pedestrian and cycle) along the entire length of the proposal, including the provision of a number of crossings directing pedestrian and cycle traffic to safe crossing location. It is considered the design of the proposed road incorporates a key piece of pedestrian and cycling infrastructure allowing alternate road users (e.g., not cars) to avoid the town centre on a designated path. It is considered the proposal is consistent with Chapter B5 in that it should promote and facilitate cycling.

## **Chapter B6 – Buffers and Minimising Land Use Conflict**

The proposed development is not one of the specific land uses listed in the tables to this Chapter as requiring the establishment of a buffer. Performance Criteria 2 Environmental Protection under B6.2.3 does include provisions to ensure new development is sited to protect key environmental assets and where possible enhance those assets. No prescriptive measures are included for this DCP element. As discussed the proposal will result in clearing within a SEPP 14 wetland, however these impacts are to be offset by the Bio banking Agreement, and other compensatory measures. The proposal also minimises environmental impacts by siting part of the bypass within an existing road reserve.

Road noise also has the potential to impact on residents in Butler Street from increased traffic compared to current vehicle noise. To mitigate these impacts noise attenuation measures are proposed for the Glen Villa Caravan Park by way of a noise fence, whilst negotiations will be required with other residents in Butler Street as to how traffic noise will be addressed. This is discussed in greater detail below.

In terms of edge effects on the wetland, these have been discussed above in relation to fencing, drainage and appropriate signage in terms of parking, camping and rubbish.

## **Chapter B7 – Mosquitoes and Biting Midges**

The proposal will not be directly affected by mosquito or biting midge hazards as it does not propose any residential or tourist and visitor accommodation.

## **Chapter B8 – Waste Minimisation and Management**

Waste management and mitigation measures are included in section 7.4 of the EIS, which identifies green waste from vegetation clearing, spoil from earthworks, road construction waste and other general waste from site activities and workers. A Site Waste Minimisation and Management Plan is to be prepared for the management and recycling of waste. A condition of consent is recommended to ensure the plan is prepared and implemented.

## **Chapter B9 – Landscaping**

The DA includes a landscape concept plan and a statement of landscape intent for the bypass. The plan has been prepared by a suitably qualified professional and species selected are sympathetic to the coastal environment they are to be planted in. A series of street trees will dominate the bypass providing a landscaped road corridor from one end to the other. A detailed landscaping plan is required as a condition of consent.

## **Chapter B11 – Planning for Crime Prevention**

Casual surveillance of the roadway is available in the northern half of the roadway, but not in the southern section where it extends through the wetland areas down to Browning Street. Appropriate street lighting will be required to provide a degree of safety for pedestrians and cyclists during the evening hours.

Other features include a separated cycleway/pedestrian path from the road, a 50km speed limit, pedestrian crossings, road signage and safety fencing. It is considered the road provides an appropriate response to the Crime Prevention Through Environmental Design principles.

## **Chapter B12 – Social Impact Assessment**

A socio-economic assessment was not required by the SEARS. However, a short assessment has been provided within the body of the EIS addressing potential impacts and identifying mitigation measures.

The proposal:

- (a) includes enhanced vehicular, cycling and pedestrian access to employment, training and recreation opportunities, community support / welfare / health / educational / shopping / public transport services and facilities, providing improved accessibility to the Byron town centre and other areas;
- (b) addresses potential security risks and safety;

- (c) responds to traffic congestion, maximising pedestrian and cycle routes, addressing noise impacts and providing improved access to existing facilities for parents with young children, people with disabilities, young people and the elderly;
- (d) improves access to existing residential properties;
- (e) addresses heritage values and character of the neighbourhood;
- (f) generates potential investment in the local economy;
- (g) makes better use of existing infrastructure; and
- (h) enhances potential business opportunities and efficiencies.

The road as identified in the EIS has the potential to possibly devalue properties in Butler Street. In terms of a dollar amount this has not been calculated, and is generally not a matter for consideration with development applications under Section 79C of the EPA Act 1979. Other short term benefits will accrue to the local economy via multiplier effects during the construction stage.

### **Chapter B13 – Access and Mobility**

This chapter does not specifically apply to this development, however it will provide a 2.5m wide concrete shared path (pedestrian and cycle) along the entire length of the proposal, including the provision of a number of crossings directing pedestrian and cycle traffic to safe crossing locations. This path will be generally level and suitable for those in motorised scooters and wheelchairs improving mobility around the town centre.

### **Chapter B14 – Excavation and Fill**

The DCP generally limits, cut and filling to 1 metre. The development will not result in excavation greater than 1 metre, however filling in the southern part of the roadway may extend above 1 metre. The EIS indicates the filling is required to elevate the new section of the road to provide an edge of formation at 2.6m AHD. Batters and road edges will be suitably landscaped with native trees, shrubs and groundcovers. It is considered the level of filling required will not have an adverse impact on the visual or scenic amenity of the locality or the built environment or surrounding properties. The proposal is considered acceptable in terms of the performance criteria underpinning this chapter.

### **Chapter C1 – Non-Indigenous Heritage**

A Heritage Assessment has been completed for the development and considered by Council's Heritage Advisor. The EIS includes management measures to protect the heritage values of the area which have been endorsed by Council's Heritage officer. The development has been considered as having a low impact on the heritage character of the area and is satisfactory in term of Chapter C1 subject to conditions of consent.

### **Chapter C2 – Areas Affected by Flood**

There are no specific height requirements for roads, however chapter C2 requires an engineering assessment of flood effects where raising of the road is proposed. The EIS includes an assessment indicating the road may cause flood waters to rise by up to 1cm. The impact of this is generally considered acceptable with more detailed modelling to be carried out with the preparation of the engineering plans for the construction certificate.

### **Chapter C3 – Visually Prominent Sites, Visually Prominent Development and View Sharing**

The proposed road is a visually prominent site being within the coastal zone, and as such is a visually prominent development for the purposes of this chapter. The road being generally level and at a low topography won't be visible from the coast or beach, nor will it obstruct views of prominent locations or landmarks such as the lighthouse, Mount Warning or other hinterland elements.

Softening of the road is proposed through intensive landscaping of the road side, traffic islands and its batters/ edges. The EIS includes a series of recommendations which have been incorporated into the proposed conditions of consent. The proposal is acceptable in terms of the provisions of chapter C3.

## **Development Control Plan 2010**

Byron Shire Development Control Plan 2010 (DCP 2010) applies to the land to which LEP 1988 applies. The following comments are provided on the applicable sections of the DCP.

### **Chapter 1: Part H – Landscaping**

The DA includes a detailed landscape concept plan. The proposed landscaping compliments the form of the proposed development and will soften the road through the use of street trees, ground covers and other native shrubs, retention of existing vegetation where possible. A central feature of this bypass which is under this DCP chapter is the planting of a fig tree within roundabout intersection of Browning and Butler Streets. The proposal is satisfactory in terms of the DCP Chapter.

### **Chapter 1: Part K – Flood Liable Lands**

There are no specific requirements for roads on flood prone land under part K. Notwithstanding this, there is a general aim under part K for development to not be unduly effected by the 1:100 year event. The road will be built above this level and therefore satisfies his requirement.

### **Chapter 1: Part N – Stormwater Management**

Stormwater runoff from the road is to be collected in kerb and gutter channelling and strip drains and swales and directed into the local drainage system which links into the Belongil Creek further to the west. The proposal also involves the construction of culverts under the road one of which is covered by this DCP being located in the southern end of the Bypass on land zoned under Byron LEP 1988. A detailed stormwater management Plan is required in accordance with the *Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings*. Conditions of consent to apply.

### **Chapter 21: Social Impact Assessment**

The elements for consideration were considered above with reference to the provisions of DCP 2014 chapter B12.

## **Section 79C(1)(a)(iiiia) Planning Agreements**

No Planning agreements have been entered into under Section 93F of the EPA Act 1979 by the applicant or the developer as part of this development application. No draft planning agreements have been offered to enter into under Section 93F of the EPA Act 1979

## **Section 79C(1)(a)(iv) Matters Prescribed by the Regulations**

The following matters as prescribed by the regulations require consideration

### **Government Coastal Policy - NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast**

The subject site of the Byron Bay Bypass sits within the Coastal Zone. The matters under Table 3 relating to Design and Locational Principles for Consideration in LEP's, DCP and Development Control within the Coastal Policy are relevant to applications in the Coastal Zone. In summary, these matters relate to development on the coastline, on dunes and on headlands as to what impact they may have on the visual amenity of the coast and the suitability of the site in terms of coastal erosion. The proposal complies with the principles where relevant.

As discussed above, the bypass is situated in part, in a SEPP 14 Wetland. Ecological matter raised by the clearing of vegetation have been considered and a Bio Banking agreement and other offsets are proposed to compensate for any potential impacts. Other conditions of consent are recommended to address construction activities which may have an impact on the environment

It is considered, the proposed road raises no specific issues in terms of the NSW Coastal Policy 1997.

## **Demolition of a Building - AS 2601 The Demolition of Structures**

The proposal does not seek consent for the demolition of any buildings

### **Section 79C(1)(a)(v) Coastal Zone Management Plans**

The proposed development is not affected by any coastal zone management plans. A draft plan has been prepared but is yet to be adopted. The draft plan has no specific actions which would apply to the proposed bypass.

### **Section 79C(1)(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

#### **Natural Environment**

The proposed road extends near or adjacent to the eastern edge of the Cumbebin Swamp and part of the road comprises both SEPP 14 Wetland and land zoned 7(a) Wetland under Byron LEP 1988 for a distance of approximately 550m before crossing the North Coast railway line. The SEAR's state the EIS must specifically outline how Principle 10 of the *NSW Wetlands Policy* is addressed. Offset requirements must be considered as part of the assessment. Principle 10 states:

10. *Natural Wetlands should not be destroyed or degraded. If social or economic imperatives in the public interest result in a wetland being degraded or destroyed, the establishment and protection of a wetland offset that supports similar biodiversity and ecological functions will be needed.*

In this regard the applicant has chosen to offset the impacts of clearing in the wetland resulting from siting the road as proposed. A biobanking statement ID 19 has been entered into between the applicant and OEH under part 7A of the TSCA. Other options for a bypass route have been considered including locating the road in the Rail corridor but these have been found to be not suitable. Further, the rail corridor is also predominantly identified as SEPP 14 Wetland, which would also require an offset arrangement similar to what has been proposed.

#### **Significant effect on threatened species, populations or ecological communities, or their habitats**

The EIS has identified the potential to impact one threatened ecological community (*swamp sclerophyll forest*), eight species of threatened flora and ten species of fauna.

The applicant has offset potential impacts from the road through clearing of vegetation via a Biobanking Statement, which was signed off by the Office of Environment and Heritage on 21 December 2015.

An area of land (approximately 1200m<sup>2</sup>) zoned 7(a) wetland under Byron LEP 1988 cannot be recognised by the Biobanking Statement because it is subject to the Native Vegetation Act 2003 provisions. This area consists of swamp sclerophyll forest in terms of habitat and is considered likely to contain habitat suitable for four threatened species, being the Mitchell's Rainforest Snail, Black Bittern, Pale Vented Bush Hen and Common Planigale. This matter was raised by OEH and the DPE in terms of additional impacts. The DPE also requested this information as a condition of concurrence under SEPP 14 as follows:

"Additional Assessments of Significance under Section 5A of the *Environmental Planning and Assessment Act 1979* are to be prepared for those threatened species, populations or ecological communities or their habitats that are known or predicted to occur within the subject site, but which lie outside the area subject to BioBanking Statement ID 19. These additional assessments are to be provided to the consent authority prior to determination of the Development Application."

The applicant provided Council with additional assessments of significance under S5A of the EPA Act 1979. The following species were considered as having the potential to occur on the site and were assessed for significance.

**Threatened flora and fauna with potential to occur at the site**

| <b>Species and Common Name</b>                           | <b>TSC Act status</b> |
|----------------------------------------------------------|-----------------------|
| Lindsaea fraseri Fraser's Screw Fern                     | Endangered            |
| Acronychia littoralis Scented Acronychia                 | Endangered            |
| Oldenlandia galioides                                    | Endangered            |
| Centranthera cochinensis Swamp Foxglove                  | Endangered            |
| Geodorum densiflorum Pink Nodding Orchid                 | Endangered            |
| Oberonia complanata Yellow-flowered King of the Fairies  | Endangered            |
| Phaius australis Lesser Swamp Orchid                     | Endangered            |
| Planigale maculata Common Planigale                      | Vulnerable            |
| Nyctophilus bifax Eastern Long-eared Bat                 | Vulnerable            |
| Myotis macropus Large-footed Mouse-eared Bat             | Vulnerable            |
| Miniopterus australis Little Bent-wing Bat               | Vulnerable            |
| Scoteanax rueppellii Greater Broad-nosed Bat             | Vulnerable            |
| Mormopterus norfolkensis Eastern Freetail Bat            | Vulnerable            |
| Carterornis leucotis White-eared Monarch                 | Vulnerable            |
| Ptilinopus magnificus Wompoo Fruit-Dove                  | Vulnerable            |
| Ptilinopus regina Rose-crowned Fruit-dove                | Vulnerable            |
| Ptilinopus superbus Superb Fruit-Dove                    | Vulnerable            |
| Miniopterus schreibersii oceanensis Eastern Bentwing-bat | Vulnerable            |
| Pteropus poliocephalus Grey-headed Flying-fox            | Vulnerable            |

Having regard to the additional fauna species, apart from the Common Planigale, they are all mobile species (birds and bats) and the extent of habitat to be removed in relation to the likely foraging range of these species is considered to be relatively insignificant. Further, the vegetation community and habitat for species of highest significance on the site as judged by OEH will be offset as shown in the table below. It can be seen that substantial habitat gains for these species and the EEC will be achieved.

| <b>Species/Community</b> | <b>Loss from development</b> | <b>Estimated area of land required to offset</b> | <b>Minimum gain at Biobank site</b> |
|--------------------------|------------------------------|--------------------------------------------------|-------------------------------------|
|--------------------------|------------------------------|--------------------------------------------------|-------------------------------------|

|                            |        | <b>outstanding<br/>credits</b> |      |
|----------------------------|--------|--------------------------------|------|
| Mitchells Rainforest Snail | 0.63ha | 8ha                            | 9ha  |
| Black Bittern              | 0.63ha | 1ha                            | 4ha  |
| Pale-vented Bush Hen       | 0.63ha | 1ha                            | 4ha  |
| Common Planigale           | 1.44ha | 6ha                            | 10ha |
| Swamp Sclerophyll Forest   | 1.44ha | 8ha                            | 16ha |

It is considered that the clearing of 1200m<sup>2</sup> of land outside of the bio banking statement is unlikely to have a significant impact on threatened species, populations or ecological communities because:

- The listed flora species have not been recorded at the site during survey.
- Only a relatively small amount (0.12 ha) of habitat for the listed species would be removed as a result of the proposal.
- The habitat to be removed is somewhat degraded due to weed infestation.
- Most of the fauna species listed are mobile birds and bats more likely to forage widely than to rely solely on the subject area.
- The proposal would not isolate any areas of habitat for these species within the study area or at a landscape scale because extensive areas of connective corridors, which would allow movement of these species to surrounding areas of suitable habitat (particularly along the drainage channel), are located to the south and west of the site.
- Mitigating measures are proposed, including the provision of culverts suitable for movement of fauna species, strict sediment and water quality controls, fauna fencing to avoid traffic impacts and weed and feral animal management.
- Expert pre-clearing surveys are proposed prior to clearing to retrieve and relocate any fauna species present within the corridor.
- Significant additional offsets are provided for target species within areas protected from future development impacts giving protection 'in-perpetuity'.

### **Soil and Water Quality**

Appropriate assessments and details have been submitted in relation to managing ASS and impacts on water quality. As previously discussed limited earthworks are proposed in terms of excavation, with the bypass route to be predominantly filled. Conditions are to be imposed in terms of limiting the length of trenching and ensuring no trenching is left exposed overnight to better manage potential ASS issues.

An assessment has also been provided against SEPP 55 Remediation of Contaminated Lands and appropriate conditions of consent have been recommended to address the recommendations in the assessment. In relation to potential contamination from construction activities such as oil or fuel spills from machinery, conditions are recommended requiring a detailed erosion and sediment control / soil and water quality management plan to manage such pollutants.

### **Noise and vibration**

The proposal will generate noise and vibration during the construction phase and operational stage. The EIS included a Noise and Vibration Assessment by GHD and an addendum report by Renzo Tonin and Associates was also submitted with further information. Both reports have been assessed by Councils noise consultants (Noise Measurement Services) and a copy of their report is attached to this assessment. In summary the proposal can be broken up into Construction Impacts and Operational Impacts.

Construction impacts relate to vibration, construction noise from vehicles, trucks and machinery. In terms of vibration it is recommended that Dilapidation Reports be carried out for all dwellings and buildings (including heritage items) along the route of the bypass prior to works commencing. In the event of a building being damaged from vibration, base data will have been collected in terms of any further remediation to buildings or for compensation claims. A complaints procedure is also required to facilitate monitoring of buildings during the construction phase.

Noise associated with construction impacts relates to machinery and worker noise. Construction noise needs to be effectively managed and monitored. Conditions of consent are recommended for a Construction Noise and Vibration Management Plan (CNVMP) to be prepared and implemented. The plan is to incorporate minimum measures as outlined in the EIS and the Renzo Tonin and Associates Report. This includes:

- the appropriate siting of work depots,
- ensuring machinery is in good working order with appropriate mufflers,
- development of a complaints procedure,
- limitations on hours of work
- appropriate education for site workers, and
- implementation of noise control measures, such as those suggested in Australian Standard 2436-2010 "Guide to Noise Control on Construction, Demolition and Maintenance Sites" to reduce predicted construction noise levels.

In terms of operational noise from the bypass, the following sensitive receivers have been identified.

### Sensitive Receivers

| Property              | Description                               |
|-----------------------|-------------------------------------------|
| 1 Butler Street       | The Australian Orthodox Home for the Aged |
| 11 Butler Street      | Byron Motor Lodge                         |
| 52 Butler Street      | Residential dwelling                      |
| 54 Butler Street      | Residential dwelling                      |
| 56 Butler Street      | Residential dwelling                      |
| 58 Butler Street      | Residential dwelling                      |
| 60 Butler Street      | Residential dwelling                      |
| 62 Butler Street      | Residential dwelling                      |
| 68 Butler Street      | Residential dwelling                      |
| 69 Butler Street      | Residential dwelling                      |
| 70 Butler Street      | Residential dwelling                      |
| 71 Butler Street      | Residential dwelling                      |
| 72 Butler Street      | Residential dwelling                      |
| 73 Butler Street      | Residential dwelling                      |
| 74 Butler Street      | Residential dwelling                      |
| 75 Butler Street      | Residential dwelling                      |
| 76 Butler Street      | Residential dwelling                      |
| 77 Butler Street      | Residential dwelling                      |
| 80-86 Butler Street   | Glen Villa Resort                         |
| 2 Burns Street        | Residential dwelling                      |
| 131 Jonson Street     | Ruskin House Accommodation                |
| 140-142 Jonson Street | Beachside Butter Apartments               |
| Butler Street         | Butler Street Reserve                     |

Prediction of future road traffic noise involves an inherent degree of uncertainty. The GHD and RTA road traffic noise models arrive at different noise levels for day time and night time. Accordingly the two higher forecasts have been considered as appropriate in terms of noise mitigation and is conservatively biased towards an over prediction of noise impacts.

In terms of mitigation, a low noise road pavement has not been considered due to the low speed environment of vehicles using Butler Street with a 50 km/h maximum. At such speeds, engine noise is more predominant than tyre noise and the road pavement has a limited impact on attenuation. Further unless such roads are regularly maintained the effectiveness of such pavements is diminished overtime.

It is considered acoustic barriers are a preferred noise mitigation strategy for the properties listed in the table above. In some instances though, the construction of noise barriers will be limited by access, safety and aesthetic considerations. Acceptable acoustic barrier heights and locations should be

established in liaison with community stakeholders (landowners). Earth mounds as a barrier are unlikely to be appropriate due to space limitations down Butler Street, however could be incorporated into the Butler Street Reserve if the park was to be attenuated. It is recommended that road traffic noise should be remodelled once the extent of the acoustic barriers has been determined with landowners, to enable the effect of the barriers to be properly considered. Updated predictions can then be reassessed to identify properties requiring further or alternative noise mitigation by a suitably qualified acoustic consultant. This will enable other treatment measures at property to be considered in accordance with the RMS Noise Mitigation Guidelines. Appropriate conditions of consent are recommended for:

- noise mitigation for the properties listed
- A time frame for the resolution of noise matters commencing after the issuing of any development approval
- Preparation of an Operational Noise Management Plan to implement noise mitigation strategies for sensitive receivers
- A Construction Noise and Vibration Management Plan (CNVMP) be prepared based on the Renzo Tonin and Associates Report and incorporating the provision of Dilapidation reports for buildings along the bypass route.
- Noise monitoring be conducted during the construction phases to enable the CNVMP be updated accordingly.

### **Dust and Air Quality**

Airborne dust levels are likely to increase during the construction phase. The applicant has indicated the need for appropriate sedimentation and erosion control measures, stockpiling protocols, and measures to stabilise disturbed areas following earthworks. In terms of air quality, construction machinery will be fitted with exhaust emission control devices as per the relevant Australian Standards, whilst cars and trucks using the road once completed similarly are controlled by exhaust and emission devices as per State and Federal Government regulations.

### **Visual Amenity**

The bypass utilises the existing road corridor of Butler Street before continuing southwards across wetland areas and across the North Coast railway line. Being a relatively low level structure with heights around 2.6m AHD, the road will not create a visual impact in the same way a road may on the side of a hill. Significantly, the road does not obstruct significant views of prominent locations such as the Pacific Ocean.

For residents living along the route, visually they will see more traffic than at present when viewing the road from the front of their property. A concept landscape plan has been submitted indicating that the road will be heavily landscaped with native trees, shrubs and grasses, including the roundabouts and in some sections the median strips. The plan will provide a tree lined boulevard and will assist in softening any visual impacts created by the road. The concept landscape plan aims to embellish retained vegetation along the route with additional plantings and landscaping to minimise impacts on privacy and to screen the road.

In terms of street lighting, this will provide for a safe environment for road users and pedestrians and cyclists. However visual glare and sky glow is an issue. The proposal recommends lighting is carefully selected in terms of light emissions, and is appropriately directed downwards with glare shields.

Conditions of consent are recommended to ensure impacts on visual amenity are minimised.

### **Environmental Monitoring and Management**

The EIS includes a range of measures to manage, mitigate and offset potential impacts from the proposal. These are summarised under Section 8 of the EIS. This includes the management of construction activities through restrictions on hours of work, construction noise, management of soil erosion and siltation issues, acid sulfate soils management, vibration and the like. Operationally other measures are proposed to limit impacts on adjoining land owners' amenity through appropriate

treatments of the road with pavements, suitable landscaping (either side of the road corridor and centre aisle), and environmental offsets through the biobanking statement to mitigate the impacts from clearing of native vegetation. A range of conditions of consent are recommended to ensure the road is constructed in accordance with Councils adopted standards

### **Socio Economic Impacts**

Socio economic impacts were discussed above. In summary, the road will assist both motorised traffic plus pedestrians and cyclists providing an easier means of navigating the Byron Bay Town Centre and alleviate traffic congestion and provide for an improvement in amenity. The construction of the road will provide for a short term boost to the local economy with multiplier effects anticipated through direct job creation and expenditure.

## **79C(1)(c) The suitability of the site for the development**

### **Route Selection**

The EIS includes a detailed analysis as to why the bypass route was selected. This analysis includes discussion regarding locating the bypass further to the east (immediately adjacent to the railway line and within the rail corridor; also known as the “Grab the Rail” route). There may be some benefits with this alternate route taking the road further away from dwellings in Butler Street and lessening potential noise and amenity impacts. However, this option has not been pursued due to the rail corridor not being in Council’s ownership, difficulties in arranging acquisition and potential conflicts with other future uses of the railway corridor. The NSW Transport Minister has also indicated to Council that the rail corridor is not suited to multi modal transport.

As noted earlier, this route would also require clearing of additional native vegetation within the Railway Corridor within the Byron Bay Railway Yard Precinct and east of the dwellings in Butler Street. Council mapping shows this to be predominantly Coastal Swamp Forest with a small area of Coastal Dune Dry Sclerophyll Forest neat the Water Tower. It is estimated that the additional clearing would be more than half a hectare compared to using the existing formed Butler Street.

A submission from the Butler Street community network provided the following reasons why the “Grab the Rail” route is better than the proposed alignment when considering the suitability of the site for the development. These submissions were considered during the assessment and addressed as follows:

#### **1. Provides a route independent of the existing local network**

**Comment:** The proposal still requires integration at Butler Street near the Butler Street reserve and Browning Street.

#### **2. Provides for a far more efficient build opportunity with a better substrate along the rail embankment offering far less traffic conflict and traffic management costs.**

**Comment:** This is an unknown cost and may in fact be a more expensive option with the road needing to be designed to ensure stabilisation of the railway embankment.

#### **3. Less heritage impacts on built fabric and setting by placing transport in an appropriately zoned infrastructure corridor.**

**Comment:** This route would go straight through the Byron Bay railway station and railway group heritage item. This would potentially have a detrimental impact on the yard and its character. Further information submitted with the heritage study indicates a historical siding providing access to the water tower, whilst other references from the heritage register are made to a turntable, engine pit, coal stage, good shed and a log unloading grid being located within the precinct.

Remnants of items of heritage interest which contribute to the precinct are likely to still exist. This is evidenced by photographs included in the heritage assessment by Virtus Heritage identifying various

items in addition to the water tower. This includes a concrete slab, a concrete retaining wall, a brick drainage culvert and a concrete footing. It is considered speculative that the 'Grab the Rail' route would have a reduced impact on heritage values. The proposed route utilises an existing road corridor which is already trafficked by vehicles. The proposal will increase traffic along Butler Street and this is acknowledged. However, there are no direct impacts on the built form of the properties in this area though removal or demolition of existing dwellings.



4. Route offer less construction and operational impacts on adjoining residential precinct and a heavily pedestrianized neighbourhood

**Comment:** Works within Butler Street, Browning Street and elsewhere along the route will need to be carried out with a traffic management plan to facilitate the movement of vehicles and pedestrians through the area during construction. With only limited traffic using Butler Street at present this issue can be managed.

5. It will provide better noise vibration and pollution mitigation opportunities

**Comment:** Relocating the road to rail corridor route will limit impacts on Butler Street residents, but transfer noise and vibration onto other properties to be managed including the Lord Byron Motel, a backpackers and other sensitive receptors.

6. Will provide a smaller impact on the Butler Street markets

**Comment:** Assuming the markets remain at Butler Street, this will need to be managed alongside the construction of the bypass. The weekly farmers markets consume only a small part of the reserve and this could be sited further to the western side of the reserve away from road works if required.

The EIS indicates that it is not anticipated that the markets will need to be relocated. The monthly markets which take up a greater part of the site may be relocated. This is a matter for Council to consider as reserve manager. It is noted that other reserves managed by Council could be used for markets if required.

7. Offers integration of a multi modal transport interchange with connectivity to railway station precinct and town centre

**Comment:** The concept put forward by the Butler Street community network indicates a bus interchange in the State Heritage railway precinct. As discussed above, no heritage assessment has been carried out on this option and the area may contain items of heritage interest which would make this option unsuitable. Further it would require substantial clearing of a paper bark forested area.

8. Allows for scalability for dual carriageway

**Comment:** The proposed option would also allow for a dual carriageway, but like the “Grab the Rail” route option would also require additional clearing within the SEPP 14 Wetland.

9. Reduced impacts on wetland hydrology and drainage systems without entrapment of wetland

**Comment:** The proposal includes details on how to manage impacts on hydrology, drainage paths, acid sulfate soils and the like. The proposal is also located near the north eastern edge of the SEPP 14 Wetland with culverts to be strategically situated under the road to allow for water to move backwards and forwards to the eastern edge of the wetland. It is noted the road does not run through the centre of the wetland creating a weir or dam like effect which could potentially lead to the entrapment of the wetland

10. Minimises impacts on biodiversity including critical habitat and wildlife corridors.

**Comment:** The proposal includes a Biobanking Statement and an additional assessment has been carried out against the EP&A Act (section 5A) for species and communities not covered by the statement agreement.

As discussed above, the “Grab the Rail” route would also require substantial clearing of additional native vegetation at the rear of the Butler Street dwellings and through the State Heritage railway precinct. The proposed route by using an existing road corridor in effect has a reduced impact on flora, fauna, habitat and wildlife corridors.

11. Less expensive than Butler Street route.

**Comment:** The preferred route uses land predominantly owned by Council. Council does not have ready access to the rail corridor, and the cost of a land transfer is unknown. Based on correspondence between Council and the Transport Minister, there appears to be little support for the use of the rail corridor for multi modal transport. Putting land tenure costs aside, the construction of either route is likely to be similar; however geotechnical support for the rail line is an unknown factor.

Other options of taking the road from West Byron through to Browning Street have been considered but would in part require substantial clearing within wetland areas, serious entrapment of wetland, and a crossing at some point across Belongil Creek.

In terms of the proposed route it does run near the north eastern edge of the Cumbebin Swamp, as opposed to cutting a swathe right through the middle of it, and has been identified as a proposed road under the Byron LEP 1988 for a number of years. The proposed site is considered suitable, and its alignment would allow Council in the future to consider other bypass extensions such as utilising Kendall Street and Byron Street to further separate traffic on entering Byron Bay at the start of Shirley Street.

## **Services**

The proposed road is unlikely to adversely impact on other services within the Butler Street area. Existing infrastructure will need to be protected from construction work and or replaced as needed. Conditions of consent are recommended in terms of protecting and relocating services.

## **Hazards**

The site is affected by a range of hazards such as flooding and acid sulfate soils which can be adequately addressed as discussed above. Significantly the road is to be elevated at or above the 1:100 year level flood which will assist traffic through Byron Bay as other parts of the local street network are prone to flooding. The bypass is also situated on bushfire prone land, and although unlikely to be impacted upon in the event of a fire, the road will provide in part a suitable fire break between the vegetation in the Cumbebin Swamp and development within the southern end of Jonson Street. The road would also provide the RFS access to fight such a bushfire.

## **Aboriginal Heritage**

An Aboriginal cultural heritage assessment was carried out as part of the EIS process. This included consultation with the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), which found that the road route is not known to contain sites or places of significance. The assessment has included a series of recommendations in the event that an unexpected find occurs during construction and for the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) to be consulted in relation to species selection for landscaping the road alignment. Conditions of consent are recommended in relation to protecting and managing any Aboriginal item that may be uncovered during construction work.

## **Non-Aboriginal Heritage**

As discussed above, a heritage assessment has been completed for the proposed road and considered by Council's Heritage Advisor. The EIS includes management measures to protect the heritage values of the area which have been endorsed by the Heritage Advisor. Other recommendations include an assessment of buildings prior to work commencing in terms of a dilapidation report and regular monitoring to ensure heritage items are not affected by vibration during the construction work. The development has been considered as having a low impact on the heritage character of the area. Conditions of consent are recommended as discussed above.

## **Butler Street Reserve (market site)**

The bypass does not affect the market site directly. However, other measures are proposed for the reserve, including using it as a car parking area for visitors and commuters to Byron Bay as a two year trial. This use of the reserve as a car park is a separate proposal and not part of this DA.

The EIS indicates that the weekly farmers market is likely to co-exist with the use of the reserve as a car park. In relation to the monthly community market its future on the reserve site is unknown, and will be resolved by a separate process beyond this application. This will be a matter for the markets to resolve with the managers of the reserve (Byron Shire Council). The bypass does include formalised pedestrian and cycle routes and pedestrian crossings for Butler Street, which should make access to the reserve safer for motorised traffic.

Part of the reserve may be used as a depot for machinery and the like, and affect the larger monthly market during the construction period. Conditions of consent are recommended for a Stakeholders group to be established between Council, its contractors, surrounding land owners and the various markets that use the reserve. The purpose of the group is to provide information on the work program for the Bypass, traffic management and changed traffic conditions, and to resolve any unforeseen issues as they arise during the construction phase of the development.

## **Section 79C(1)(d) Submissions made in accordance with the Act or the regulations**

The DA was placed on public exhibition from 25/02/2016 to 01/04/2016 in accordance with the requirements for designated development. Forty three submissions were received. In addition to this exhibition, the previous DA for the bypass (DA10.2015.384.1) also attracted significant community interest with 609 submissions received. With the withdrawal of the 2015 application taking place immediately before the lodgement of the current proposal, Council advised the submitters that their previous submissions would be considered in the assessment of the DA and they have been also considered.

Issues raised in the submissions and have been summarised and attached (with staff comments included).

#### **Section 79C(1)(e) Public interest**

It is considered the bypass is a necessary piece of road infrastructure which will serve not only the local population and businesses, but also the broader community and visitors to the region. It is necessary in order to address traffic flow and traffic congestion issues being experienced in the Byron Bay town centre and locality. It is considered the bypass is in the public interest.

### **4. DEVELOPER CONTRIBUTIONS**

#### **4.1 Water and sewer levies**

The proposed road does not generate a nexus to levy Water and Sewer Headwork's charges

#### **4.2 Section 94 contributions**

The proposed road does not generate a nexus to levy Section 94 Contributions.

### **5. CONCLUSION**

The proposed Byron Bay Bypass has raised a number of issues and concerns, but has long been planned for by Council and still remains on Council's planning and other strategic documents. The development will generate impacts on the environment, both built and natural, however after lengthy consultation and assessment the proposed route is considered to in effect reduce environmental impacts compared to other options, avoid a State Heritage Registered item and remains predominantly in the control and ownership of Council. Importantly half of the proposed road is situated on an existing built road corridor.

A Bio Banking Agreement has been issued under part 7A of the Threatened Species Conservation Act 1995 to mitigate potential impacts from clearing, whilst a range of management measures are required and recommended to control construction activities and the like. Operationally the road will affect residential properties in Butler Street by vehicle noise and a change in part to its character becoming a through road. Noise mitigation measures will be required and a process is proposed to enable this to occur with consultation with landowners, whilst landscaping to the route combined with a shared pedestrian cycleway path will assist with maintaining the residential character of the street.

Traffic congestion will continue to be an issue having regard to the popularity of Byron Bay as a destination and impact on the efficiency of the road network and the functionality of the town centre however the proposal will provide for a great improvement on traffic congestion and current standards of efficiency and functionality. On balance the proposed bypass is considered the best alternative, acceptable, and is recommended for approval.

### **6. RECOMMENDATION**

It is recommended that:

1. Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application no. 10.2016.77.1 for Upgrade and Construction of New Road in the Butler Street Road Reserve, comprising of the Extension of Butler and Browning Streets, New Level Rail Crossing, Three (3) New Roundabouts and Upgrade of Shirley, Lawson and Butler Street Roundabouts, Two (2) New Culverts and Upgrade of One (1) Existing Culvert , be granted consent subject to the attached conditions.

## 7. ENDORSEMENT

Assessment Officer (s): Name: Mr C A Larkin

Signature:  .....

Date: 10/6/16

## Attachment 1 Submissions Table and Comments

| Issue                                                                                                                                                                                                                                                                                                                                                                                      | Staff Comment                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Bypass not required</b>                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                       |
| Byron Bay town centre is already a bypass from the Pacific Highway and/or motorists come to town deliberately rather than pass through.                                                                                                                                                                                                                                                    | The proposed bypass will better manage traffic entering Byron Bay and facilitate local traffic movement around the town centre, e.g., from South Byron and Suffolk Park through to the industrial estate and Ewingsdale and vice versa.                                                                                               |
| Park and ride and better pedestrian/cycle access would do more to alleviate traffic than this unnecessary, ineffective and destructive proposal.                                                                                                                                                                                                                                           | Park and ride may be part of the solution and the establishment of the 'Elements' train from Bayshore Drive/Sunrise Estate into Byron Bay may also assist to reduce traffic congestion.                                                                                                                                               |
| Objections are raised to the claim made in the DA that "Council and the community have recognised the need for an efficient town centre bypass and second rail crossing for the centre of Byron Bay for many years. Recent results (June 2015) from the extensive community consultation undertaken for the Byron Bay Town Centre Masterplan support the bypass in the proposed location". | <p>The need for the bypass was included in the Byron LEP 1988 when the route was gazetted 9(a) Proposed Road. Council support for a bypass is identified in the adopted Community Strategic Plan 2022 through the Delivery Action Plan 2013 – 2017.</p> <p>The bypass is also recognised in the Byron Bay Town Centre Masterplan.</p> |
| <b>Bypass inadequate</b>                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                       |
| <p>The bypass should start at Bayshore Drive and go over the wetlands to the road south of town.</p> <p>The bypass should start further west (at least at the BP) and come out at Cemetery Road.</p> <p>Run a main exit road from Byron through proposed West Byron development behind Belongil Fields joining to Cemetery Road at the west Byron developer's expense.</p>                 | <p>The proposal has the potential to remove 20-30% of traffic from Jonson Street per day. The bypass is only part of the traffic solution for Byron Bay.</p> <p>Alternate routes for the bypass were considered as part of the EIS assessment process.</p>                                                                            |
| Install roundabout at intersection of Ewingsdale Road and Bayshore Drive.                                                                                                                                                                                                                                                                                                                  | The roundabout at Bayshore Drive is currently being considered by Council separate to this proposal.                                                                                                                                                                                                                                  |

| Issue                                                                                                                                                                                                                                                                                    | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rail or tram between Mullumbimby and Byron Bay, move or relocate station from Byron Central to Belongil.                                                                                                                                                                                 | The Elements Trains if running will provide rail from Bayshore Drive into Byron Bay. This is not part of the proposed development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Tram or rail stops at the rear of sports centre.                                                                                                                                                                                                                                         | Other options to return trains to the local rail network are beyond Councils capacity, and not part of this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Ecological impacts</b>                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Proposal will destroy significant wetlands habitat and wildlife corridor when an alternative option exists. Independent expert advice confirms that the rail corridor alternative bypass route put forward in the 2001 EIS represents far less impact on biodiversity than the proposal. | <p>Environmental Impacts on the wetland are to be offset by a Biobanking statement. The location of the road closer to the rail corridor would also be located in the SEPP 14 Wetland, still require offsets based on Principle 10 of the <i>NSW Wetlands Policy</i>, and also require the removal of Coastal swamp forest (swamp sclerophyll forest EEC) between the Butler Street Dwellings and the rail line.</p> <p>In comparison the utilisation of the Butler Street road reserve as currently formed up will lessen potential environment impacts and reduces the amount of clearing required for the road by a minimum of 5000 m<sup>2</sup> when the full extent of the alternate 'Grab the Rail' option is considered. It is incorrect to assume this option will have a smaller impact on the natural environment.</p> |
| The application for a biobanking statement grossly understates the area impacted due to fragmentation and altered hydrology and provides no indication of alternatives.                                                                                                                  | The biobanking statement has been assessed and issued by another OEH and its assessment is not part of this application process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| There is a lack of assessment of alternatives to ensure the minimisation of biodiversity impacts for the project.                                                                                                                                                                        | A range of alternatives were looked at as part of the process. For example, see analysis of 'Grab the Rail' route option.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Relies on expensive biobanking statement that allows for destruction of a healthy protected environment to create a fake one.                                                                                                                                                            | Biobanking statement is required to offset impacts on the environment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>Buffers from road are pushed into the SEPP 14 wetland creating edge effects:</p> <ul style="list-style-type: none"> <li>• Offsets should include buffers</li> </ul>                                                                                                                   | The biobanking arrangements considered buffer and edge impacts. It is also recommended that Conditions of consent be imposed for weed management, fencing along the bypass for koala management and to restrict the movement of feral and domestic animals from entering the wetland, and to limit                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Weeds</li> <li>• Feral animals</li> <li>• Koala management</li> <li>• Unauthorised access, illegal camping.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | unauthorised access and illegal camping                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Lack of information on the impacts on hydrology, downstream impacts from treating ASS and water quality impacts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Sufficient detail has been submitted to enable such impacts to be considered.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Principles of Ecologically Sustainable Development (ESD)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>Precautionary principle – the EIS fails because, having regard to the precautionary principle, it avoids careful examination of a significant option that may significantly reduce the risk of damage to the environment.</p> <p>Inter-generational equity – the EIS fails by proposing to destroy and irreversibly damage ecology, heritage and the social environment of the present generation without properly considering alternatives that could manage to preserve and or integrate the proposal with the existing environment for future generations and avoids providing details of public transport provisions within the scheme</p> <p>Destruction of protected wetlands and species</p> | <p>The proposal has considered other options including the do nothing option. In terms of the environmental impacts that have been identified a biobanking statement has been issued by the Office of Environment and Heritage and other measures as detailed in the report have been recommended to reduce potential environmental impacts.</p> <p>In terms of intergenerational equity, the proposed road will be in existence for years to come and will serve future generations. The location of the road also preserves the rail corridor to enable other forms of public transport to return.</p> |
| <b>Traffic flow and pedestrian safety impacts</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Closely placed roundabouts have failed in England where now many have traffic lights on them to allow for an equitable access from other minor roads that access the roundabouts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | The roundabouts are considered to comply with the relevant traffic guidelines for road construction and design.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Existing Butler Street traffic volumes vary between 200 car movements at the southern end and 1500 at the northern end. Conservative modelling                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Traffic volumes are anticipated to increase to between 4,320 and 5,940 vehicles per day at various south and northern ends of the bypass. There will be no weight restrictions on traffic using the bypass. The intention is to take through traffic                                                                                                                                                                                                                                                                                                                                                     |

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <p>estimates traffic volume increase on Butler Street to 5,940 vehicles per day. Road pavement is designed for heavy vehicles up to 19 metre semi-trailers. The bypass is intended to divert much of the current heavy vehicle traffic around the town and the clear intention is to locate the bus station off Butler Street ensuring that local and interstate bus traffic diverts to the bypass.</p> <p>Object to the traffic increase in what is currently a pedestrian friendly low/small scale residential street network. The level of noise, vibration, air and light pollution traffic hazards, danger and inefficiency will also significantly increase.</p> | <p>away from the town centre.</p> <p>Impacts from the road such as noise will be ameliorated, whilst formalised pedestrian and cycle ways will be provided as opposed to the informal arrangements currently in place.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>The Bypass will disenfranchise Butler Street community values, lifestyle, degrade the amenity of our neighbourhood and the environment to justify an inadequate bypass.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>The proposed road will increase traffic on Butler Street. This affects 17 residential properties with frontage to Butler Street and the Glen Villa Resort. The alternate 'Grab the Rail' route along the rail corridor would have a direct impact on only five dwellings in Butler Street, but as discussed above would require substantially more land to be cleared. The route would then be closer to other sensitive receivers in Jonson street such as the old Norco Building Apartments and the Lord Byron Motel. Other bypass options such as the Wentworth Street Option would also have an impact on 22 residential properties, (including two dwellings in Butler Street) plus the Arts Factory Backpackers. This option whilst sparing the majority of residents in Butler Street would also require substantial clearing through the middle of the SEPP 14 Wetland to get to Kendall Street.</p> <p>Impacts from the road such as traffic noise are to be ameliorated, whilst better facilities are proposed for pedestrians and cyclists to enable passage for non motorised forms of transport.</p> |
| <p>The proposal will have little or no impact on reducing traffic congestion with the Shirley/ Lawson street roundabout being a major hold point.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>The Shirley/Lawson Street roundabout will be designed with two lanes with through and turning lanes to separate traffic to enable motorist to avoid the town centre.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <p>The most important walking and cycling connection across the proposed bypass at Burns Street is dangerous and disjointed. Pedestrians and cyclists will have to negotiate intersections, a main road, driveways, vegetation blocking sightlines, fences and turning lanes on a zigzag route. By contrast a pedestrian crossing over the rail corridor route off Burns Street would be simple, contained, straight and within an open field of view.</p>                                                                 | <p>The proposal provides for formal pedestrian and cycleway including road crossings, compared to the current informal arrangements</p> <p>Conditions to apply to ensure such crossings are in accordance with Austroads guide to road design as recommended by the Roads and Maritime Service.</p>                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>The proposal will seriously hamper the mini-bus pick-up and drop-off service, transporting backpackers and visitors from the Arts factory lodge and the old piggery brewery / restaurant / theatre to the point of discontinuation and there has been no community consultation in this regard.</p>                                                                                                                                                                                                                     | <p>It is unlikely the proposed bypass would impact on the backpackers located on Skinners Shoot Road some distance from Butler Street. Access roads from Butler Street will retain turning lanes and the like to facilitate safe turning movements onto the local road network to access the Backpackers which is approximately 700 metres from Butler Street by local roads.</p> <p>The proposal has been exhibited in accordance with the requirements of the EP&amp;A Act for designated development.</p>                                                                                                                                                                                         |
| <p>There is no pedestrian and bicycle count or mapping provided and no sensitivity to the existing high level of pedestrian movements in the neighbourhood given its high visitor accommodation numbers, close proximity to the CBD, beaches and busy market activity.</p> <p>No indication provided of intended pedestrian barriers to control movements other than at the Lawson / Butler / Shirley Street roundabout. Pedestrian bicycle movement will be severely constrained and will be effectively discouraged.</p> | <p>The proposal acknowledges pedestrian and cyclist traffic and is to provide for an off road pedestrian / cycleway connecting from Browning Street to Lawson Street. The proposal also includes six pedestrian crossings of Butler Street with medium strip refuges and pram ramps at the sides.</p> <p>It is considered the proposal will provide a better level of service for pedestrians and cyclists than currently exists with no formalised cycleway through this area at present. The cycleway will be a 2.5-metre wide shared path.</p> <p>It is considered the proposal will not discourage pedestrians or cyclists from accessing the town centre from surrounding residential areas</p> |
| <b>Amenity impacts</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>The DA executive summary states that the bypass will enhance in-town amenity - How? By placing the car over pedestrians? Obviously since the recent introduction of paid parking clearly renews the importance of keeping cars in town, for revenue. The bypass as Council proposes is keeping car-culture alive.</p>                                                                                                                                                                                                   | <p>The proposal aims at reducing traffic congestion within the town centre, by removing through traffic from Lawson and Jonson Streets. This will improve transport times, reduce car emissions, reduce congestion and therefore provide for an improvement in amenity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                          |

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <p>The visual amenity of Butler Street will be significantly impacted by the proposal due to transformation of an informal local heritage street into a major thoroughfare for heavy vehicles as well as cars which will have a significant impact on the visual and characteristic amenity of the neighbourhood. The most dominant visual characteristic change will be vehicles and these are ignored by the visual assessment.</p>                                                                                                      | <p>The proposal includes a visual amenity assessment with recommendations for amelioration measures. In general the proposed bypass is located on flat level terrain, which is not visible from the Coast or beach and will not obstruct visually significant views of prominent locations (e.g., the road won't block a view of Julian Rocks or the Pacific Ocean).</p> <p>The road will result in increased traffic along Butler Street as it bypasses the town centre. For residents living along the route, visually they will see more traffic than at present when viewing the road from the front of their property. The proposal includes a concept landscape plan which aims to embellish retained vegetation along the route with additional plantings and landscaping to minimise impacts on privacy and to screen the road.</p> <p>In terms of street lighting, this will provide for a safe environment for road users and pedestrians and cyclists, however visual glare and sky glow is an issue. The proposal recommends such lighting to be carefully selected in terms of light emissions, be appropriately directed downwards with glare shields.</p> |
| <p>There will be construction and operational air quality impacts from truck and car movements with potential impacts on residents.</p>                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Vehicles using Butler Street like elsewhere in the road network need to satisfy air pollution requirements.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>The rail route option limits noise and vibration impacts on Butler Street residents.</p> <p>Noise abatement walls would not be effective due to access openings and would greatly change the character of the neighbourhood. Treatment to the structure of the houses would be very difficult given the existing structural limitations and would only be effective if all doors and windows remained closed seriously impacting on the lifestyle of the residents and home economy via the energy consumption of air conditioning.</p> | <p>The 'Grab the Rail' Route Option is not feasible, but would only directly impact on five properties. This option though would also then impact on other sensitive receivers in Jonson Street.</p> <p>The treatment of most properties along the route can be achieved and noise issues appropriately ameliorated. The two heritage listed dwellings will need to be carefully examined to ensure the fabric of the two buildings is not compromised by amelioration measures.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Noise, lighting, Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>Elderly people live to the west of the proposed route and therefore safety concerns about crossing the road at night. Good security lighting will be required.</p>                                                                                                                                                                                                                                                                                                                                                                      | <p>Appropriate street lighting is required to make the road safe at night for pedestrians and cyclists. Conditions to apply.</p> <p>Delegated areas to pedestrian crossing at the bypass will also be constructed whereas presently there are no proper</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| Issue                                                                                                                                                                                                                                                                                                   | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                                                                                                                                                                                                                                                                         | crossings.                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Elderly people live to the west of the proposed route and have been used to quiet and bushland sounds for 30 years (at Glen Villa), and therefore effective noise abatement screening will be required.                                                                                                 | Noise abatement measures are proposed for the Glen Villa Resort.                                                                                                                                                                                                                                                                                                                                                                                    |
| Consultation with the Aged Care Facility required in terms of plants species                                                                                                                                                                                                                            | It is considered this is not an unreasonable request and a condition is recommended requiring the landscape designer to consult with the Aged Care facility.                                                                                                                                                                                                                                                                                        |
| <b>Rail corridor should be used</b>                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| The road should be sited parallel to an existing but disused corridor that will never be returned to trains and impacts on markets could be resolved.                                                                                                                                                   | It is unclear on the future use of the rail corridor and this is a matter for the State Government.                                                                                                                                                                                                                                                                                                                                                 |
| There is no evidence to support the notion that the rail corridor bypass option is not feasible due to acquisition costs, the need to change the status of the rail line and the need for an act of Parliament.                                                                                         | <p>Council does not own or manage the rail corridor and would either need to acquire it or obtain a long term lease over it. Discussions with State government to date indicate there are no plans at this point in time to dispose of the asset to Council for the purpose of a road.</p> <p>The EIS indicated that an Act of Parliament is required under section 99A of the <i>Transport Administration Act 1988</i> to close the rail line.</p> |
| The EIS avoids proper consideration and comparison of the rail corridor alternative route which would have considerably reduced environmental impacts – social, cultural, heritage, ecological, economic, etc.                                                                                          | The 'Grab the Rail' route is discussed in the assessment of the report in detail and raises a number of issues in terms of ecological and heritage impacts which would need to be addressed. The Butler Street option as proposed avoids those impacts.                                                                                                                                                                                             |
| The proponent seeks to justify the proposal on the grounds that the impacts to residents along Butler Street would be comparable to those residents currently living on Shirley Street, Jonson Street or Bangalow Road. These streets are the most inhospitable dangerous, traffic logged and polluted. | <p>From the EIS and the Traffic Study - Vehicle movements per day on existing streets are:</p> <p>Ewingsdale Road - 17012 vpd</p> <p>Bangalow Road – 17417 vpd</p> <p>Lawson Street – 189417 vpd</p> <p>Shirley Street – 21000 vpd</p> <p>Jonson Street – 9000 vpd</p>                                                                                                                                                                              |

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | The proposal is estimated to generate traffic between 4,320 and 5,940 vpd. Traffic volumes would be less than currently experienced on these streets.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| The proponents dismiss the rail corridor alternative route on the basis that this route is not supported by Transport for NSW. The proponents claim that the then Member for Ballina, Don page, sought and relayed advice from General Manager, Country Rail Contract, Transport for NSW (September 2014), that the rail corridor was unlikely to be wide enough to accommodate operational rail, a two lane road and the proposed Rail Trail. No detail has been provided to allow an adequate assessment by Transport for NSW. | The Minister for Transport advised Council on 19 December 2014 that the rail corridor is not wide enough for multi modal transport.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Faults with EIS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| There is a lack of contemporary data for geotechnical assessment. There are higher risk acid sulfate soils and poor quality swamp soils that could be avoided by locating the bypass route alongside the rail corridor.                                                                                                                                                                                                                                                                                                          | Acid Sulfate soils have been appropriately investigated and conditions are to apply to the development. In terms of excavation works, these are likely to be required for the installation of culverts under the road to enable stormwater movement to move into the Cumbebin Swamp via existing drainage channels. Locating the road adjacent to the railway line is unlikely to remove the need for such works and ASS will still remain an issue to be sensitively managed.                                                                                                                                                                                                                                                                                                             |
| Submitted zone maps are incorrect and don't reflect actual uses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | The zoning maps within the EIS are consistent with the adopted LLEP maps.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Heritage Impacts</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| The proposal impacts on the Burns Street Conservation Area in significantly transforming the heritage streetscape with a bypass main road out of character with the form and intent of the residential area and threatening the integrity of the heritage items in the area with noise and vibration impacts. This is confirmed in an independent heritage report which also reveals the distortion of heritage priority given to the railway corridor over the Burns Street Conservation Area.                                  | <p>The alternate route put forward by the Butler Street Community Network would take the road ('Grab the Rail' route) through the centre of the Byron Bay Railway Station Precinct. This is a State Heritage listed item which still retains heritage remnants as discussed in the body of the assessment report. The proposed route predominantly avoids the precinct and therefore avoids impacting on this state listed precinct. The Burns Street precinct is of only listed in the Byron LEP 2014, and as such the provisions of Section 58 of the Heritage Act 1977 do not apply.</p> <p>Further, no heritage listed buildings are proposed for removal or demolition, nor is land required for acquisition from any heritage listed properties as opposed to the State Heritage</p> |

| Issue                                                                                                                                                                                                                                                                                                                                                                                                | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                                                                                                                                                                                                                                                                                                                                                      | <p>listed railway precinct. In terms of character, the road follows an existing road reserve already used for traffic movement. Impacts from traffic predominantly relate to noise for residents and safety for road users.</p> <p>Noise mitigation to heritage dwellings in Butler Street may generate an indirect impact though such as noise fencing or double glazing which requires changes to the fenestration of dwellings. Vibration impacts through the construction phase have the potential to impact not only on heritage buildings but also other properties along the route of the bypass. The proposal includes details on how to manage and monitor vibration. The submitted recommendations are supported in terms of treating these dwellings for noise and vibration. Conditions to apply</p> |
| <p>The proposal removes one Norfolk Pine and probably causes the removal of the remaining three Norfolk Pines fronting the Police Station due to construction impacts.</p>                                                                                                                                                                                                                           | <p>Only one Norfolk Island Pine is proposed for removal. Conditions to apply for its replacement.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>Proposes a transport Interchange or Bus Station off heritage Butler Street without any consideration of the impacts.</p>                                                                                                                                                                                                                                                                          | <p>No bus or transport interchange is proposed as part of the development.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Impacts on flooding</b>                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>The DA studies themselves show that flooding will increase</p>                                                                                                                                                                                                                                                                                                                                    | <p>The EIS indicates a rise of up to 1 cm in flooding. In terms of Byron LEP 1988, this is unacceptable, however detailed modelling and further detailed design work on the proposal is recommended as a condition of consent to ensure compliance with clause 24 of the BLEP 1988. This may require additional culverts to be installed to reduce fill impact on the storage and to provide for better flow of storm and flood waters.</p>                                                                                                                                                                                                                                                                                                                                                                      |
| <p>There is a lack of accurate ground level contours and flooding map information. There is no contour map to clearly indicate surface levels, water courses or road and embankment levels, or design finished levels. The 2001 EIS clearly indicates contours, existing ground levels and design levels for the entire length of the proposal. It is impossible to verify the fill requirements</p> | <p>The proposal provides sufficient detail to enable assessment, with the applicants hydraulic and Flood Assessment using LIDAR (remote sensing) to calculate the amount of fill required and impacts flood storage capacity, with the plans indicating a finished level for the road.</p> <p>In terms of SEPP 14 Wetland, it is considered the proposal will not have a detrimental impact on the wetland or cause an entrapment of water flow. The DPE have issued their</p>                                                                                                                                                                                                                                                                                                                                   |

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| for the proposal. It is clear that surface and ground water hydrology will be seriously impacted in the SEPP 14 wetland area by the required embankment of as much as 2.5m high entrapping the natural ground water flow.                                                                                                                                                                                                                                                                                                                                                              | concurrence for the development under the SEPP 14 following consideration of the various matters listed under clause 7.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| No assessment is provided for flood immunity for the proposed road in the SEARs or contingency measures in the event of operational impacts due to flooding. No water hydrology or flood impact comparison is provided for an alternative bypass route formed alongside the existing railway embankment. Impacts for this alternative route would be significantly reduced and flood immunity more easily achieved. Drainage is not altered.                                                                                                                                           | <p>The road is proposed to be built to a height above the 1:100 year level flood.</p> <p>In terms of the 'Grab the Rail' Route, this will also require substantial earthworks and filling adjacent to the rail line embankment. This option can-not fit or co-exist on the existing narrow area currently filled with ballast to support the existing rail line.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Impact on Markets</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| No details of the construction and operational impacts on the market activities. The EIS does not address this issue in its full scope as required by the SEAR's. We suggest that no market activity could co-exist alongside a major works construction compound let alone alongside major road building activities. The fact is that Council has already acted on the intention to remove the markets from the Butler Street Reserve and instigate a paid parking program there. There is no mention of socio-economic impacts on the market activities in the Reserve or elsewhere. | <p>There is no reason why both the farmers markets and the monthly community market can not co-exist with the bypass. The future use of the reserve for markets is a matter for Council though, as land manager and is generally outside of the scope of this project.</p> <p>In terms of operating during the construction phase the smaller farmers market can continue to operate on the Butler Street Reserve. However there may be some impacts on the larger market which takes up the majority of the reserve in the event that part of the reserve is used for a storage depot. Council may need to provide an alternate site for the markets to operate from. Assuming a 12 month construction period this would potentially impact 12 monthly markets.</p> <p>Conditions of consent recommended requiring consultation with both markets to resolve any locational issues that may arise during the construction phase.</p> <p>Use of the reserve for other activities other than markets is a matter for the land managers and not part of this proposal.</p> |
| <b>Impacts on parking</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| No economic cost has been provided of the loss of 70 car parking spaces along                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | The EIS indicates a loss of up to 70 car parking spaces many of which are informal and unmarked. With car parking at a                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| Issue                                                                                                                                                                                                                                                                                              | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| Butler Street let alone the loss of amenity.                                                                                                                                                                                                                                                       | premium in the Byron Bay CBD it is in Councils interest to replace any parking spaces with the commencement of paid parking. This is a separate matter for Council to resolve as a land manager.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Traffic Study is out of date and not considering paid parking impacts on people driving into Byron Bay                                                                                                                                                                                             | <p>Paid parking was introduced at the end of 2015, and the Traffic and Transport Assessment in the EIS was completed June 2015. Paid Parking has the impact of making driving into Byron Bay more expensive if paying for parking. Whether this has had a marked impact on visitors and locals in terms of driving is unknown and traffic surveys would need to be collected for a couple of years to get a clear picture on driving behaviour. Traffic counts collected over the summer of 2015/16 however have not shown any decrease in vehicle trips per day with an 8% increase in vehicles recorded on Ewingsale Road near Kendall Street and a 21% increase in vehicles on Bangalow Rd near Browning Street</p> <p>Improvements to the Pacific Hwy and a growing population locally and regionally may also have an impact on vehicle movements. Notwithstanding this, if there has been a reduction in vehicle movements into and out of Byron Bay this would be of benefit to the local road network.</p> |
| A multi storey car park is not required                                                                                                                                                                                                                                                            | The proposal does not include multi storey car park                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Impacts on parking for the Services Club relied upon by existing approvals.                                                                                                                                                                                                                        | Council has been in discussions with the Club. Parking in the Browning Street section of the bypass will be removed. The parking is used by the club but is generally available as public parking. Additional parking provided within the public domain can be relied upon by the club in terms of historical approvals.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Impacts on public transport</b>                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| The proposal will effect little change to public transport and may even produce an adverse impact due to potential increased congestion at the Butler Street roundabout for buses seeking to exit town via Lawson Street or renegotiate streets through the CBD to exit north via Browning Street. | Dual lanes are proposed for the Shirley, Lawson and Butler Street intersection to enable traffic to split and merge as required. The Browning and Jonson Street roundabout will also enable traffic at this point to avoid the CBD. The traffic studies indicate a reduction in traffic congestion within the CBD at both Jonson and Lawson Street. There is always the fear that with the construction of new and better roads, car owners respond by driving more and any capacity created in the road network is quickly filled. This however is also affected by a range of other factors including cost of fuel, the availability of parking, the cost of parking, alternatives to driving, provision of pedestrian and cycleways, and the like. The proposal does provide a safe off road pedestrian and                                                                                                                                                                                                     |

| Issue                                                                                                                                                                                                                                | Staff Comment                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                                                                                                                                                                                                                                      | cycleway, whilst paid parking requirements were introduced in Byron Bay at the end of 2015. Other proposals being planned include the return of a light rail commuter train from the Elements Resort at Bayshore Drive into Byron Bay, and should broader train transport return to the North Coast and or use the rail corridor as a rail trail, this potentially would further reduce traffic congestion in Byron Bay. |
| The Butler Street Community Network have provided preliminary plans for a bus station and transport hub within railway station precinct.                                                                                             | The transport hub provided in the submission is located within the State Heritage Listed Byron Bay Railway precinct. This is not without its problems as discussed in the body of the assessment report and approval would be required under the Heritage Act 1977 to site a major infrastructure proposal on this land.                                                                                                 |
| Cost to the community                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                          |
| There is no indicative costing for construction, land acquisition, biobanking, proposed multi level car parking other expenses. How can the community form any reasonable opinion of the justification or otherwise of the proposal? | The DA includes an estimated cost of construction of \$10 million dollars.                                                                                                                                                                                                                                                                                                                                               |

## Attachment 2      Director Generals Requirements (Secretary's Environmental Assessment Requirements)

The applicant sought the Director Generals requirements pursuant to Part 4 of the EPA Act 1979 for the preparation of the Environmental Impact Statement. The requirements were issued on the 18/2/14. The SEAR state the EIS must assess the following potential impacts of the proposal:

- **Project justification** – including need for project and project history, including consistency with the *Far North Coast Regional Strategy* and other relevant strategic planning documents;
- **Route selection** – analysis of benefits and impacts of investigated routes, and feasibility of alternative routes, including land within the existing rail corridor;
- **Biodiversity** – direct and indirect impacts on terrestrial, riparian and aquatic flora and fauna and habitat, and groundwater dependent ecosystems, within and surrounding the proposed development footprint, taking into account threatened species, ecological communities and critical habitat listed under the *Threatened Species Conservation Act 1995* and *Fisheries Management Act 1994*, including consideration of activities requiring approval or concurrence under the *Fisheries Management Act 1994*. The EIS must specifically outline how Principle 10 of the *NSW Wetlands Policy* is addressed. Offset requirements must be considered as part of the assessment;
- **Land use** – detail the impact on and from surrounding current and future land uses, including issues relating to adjoining areas and an analysis of site suitability with respect to potential land use conflicts. Specific consideration should be given to impacts of the widened and more formal verge on residential and business premises along and in close proximity to the proposed route, and construction and operational impacts on market activities in the Butler Street reserve;
- **Traffic** – include a Traffic Impact Assessment (TIA) prepared by an appropriately qualified person and in accordance with Austroads guidelines. The TIA must identify the impacts of the proposal on the safety and efficiency of the road network during construction and operation with consideration to be given over an appropriate planning horizon. Details of the proposed connection to MR545 must be provided. Any works on MR545 must be designed in accordance with Austroads guidelines;
- **Transport** – assessment of the proposed crossing of the Casino to Murwillumbah railway line in accordance with the *Construction of New Level Crossings Policy* and *Protocol for New Level Crossings/Change in Use of a Level Crossing*, assessment of direct and indirect impacts of the proposal on public transport, consideration of walking and cycling infrastructure connecting to and across the bypass, and assessment of impacts on the future implementation of a 'rail trail' within and/or adjacent to the railway corridor;
- **Non-Aboriginal heritage** – including direct and indirect impacts, including vibration, on local and State heritage items (including but not limited to the Byron Bay Railway Station group) and on archaeological relics. The EIS must include a description of strategies to mitigate impacts, and an evaluation of the effectiveness of those strategies. All heritage assessment must be carried out by a suitably qualified and experience heritage consultant, and archaeological excavation, if required, must be carried out by a person who meets the Heritage Council of NSW Criteria for the Assessment of Excavation Directors;
- **Aboriginal heritage** – a description of the actual potential harm posed to Aboriginal objects or declared Aboriginal places with reference to identified cultural heritage values, of measures to avoid, mitigate or manage actual or likely harm, and of how the consultation with Aboriginal stakeholders has been conducted with regard to relevant legislation and guidelines;

- **Noise and vibration** – assess the likely impacts during construction and operation in accordance with relevant road noise and vibration guidelines, and the effectiveness of any necessary measures to manage and mitigate construction and operational noise and vibration;
- **Surface and groundwater hydrology** – impacts on creeks, waterways and wetlands, including potential impacts on groundwater levels, salinity, potential contamination of groundwater, bank erosion, siltation, and downstream water quality. The assessment must include a concept stormwater plan including surface water drainage patterns;
- **Flooding** – flood impacts, including impacts on and/or changes to flood behaviour, flood immunity levels of the proposed road, and contingency measures in the event of operational impacts due to flooding;
- **Soil and water quality** – detail the potential occurrence of contaminated and/or acid sulfate soils and likely impacts from the disturbance of those soils, including impacts on water quality. This must include an assessment of contamination and/or acid sulfate soil risks resulting from the proposal;
- **Air quality** – detail construction air quality impacts to nearby receivers;
- **Visual Amenity** – include an assessment of changes to visual amenity, with reference to surface components and vegetation removal and include proposed mitigation measures, including proposed landscaping and other visual screening; and
- **Environmental Monitoring and Management** – the EIS must describe in detail what measures would be implemented to manage, mitigate or offset the potential impacts of the proposal (as identified above) during construction and operation as relevant, and where required, describe how the environmental performance of the proposal would be monitored and managed over time. Where possible, reasonable and feasible mitigation measures should be developed in consultation with surrounding affected landowners and relevant public authorities.

The EIS has provided documentation addressing these matters and are discussed below in the assessment of the DA.





