

23 March 2023

Mark Arnold
General Manager
Byron Shire Council

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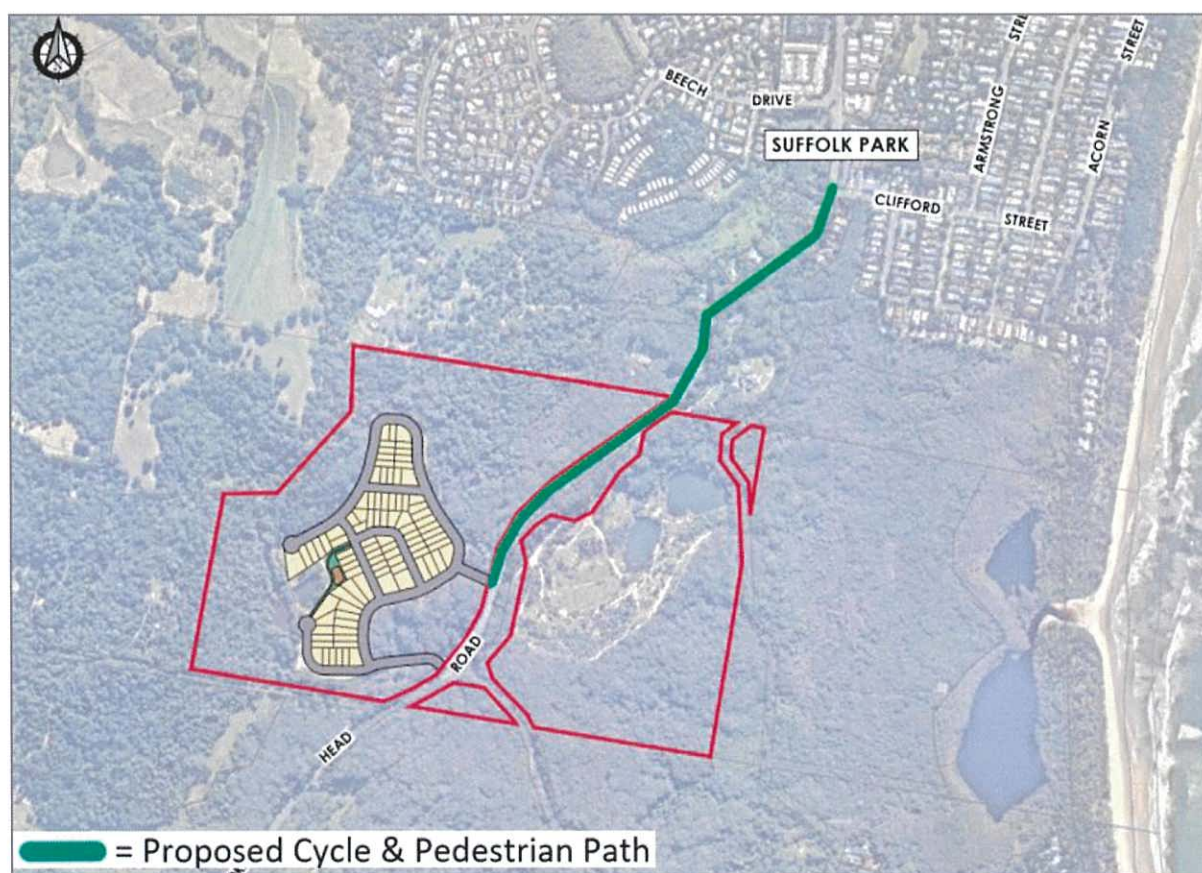
Dear Mr Arnold

**Planning Proposal for Residential Rezoning of Part of Former Broken Head Quarry
– Offer to Enter into Voluntary Planning Agreement**

Winten Property Group, on behalf of Crisjoy Pty Ltd ATF Lighthouse Unit Trust, offers to enter into a Voluntary Planning Agreement (VPA) in connection with the above planning proposal.

As explained in the Planning Proposal Report prepared by SLR Consulting, dated March 2023, the planning proposal site (**the Land**) is located on the fringes of an existing urban area, with Suffolk Park neighbourhood centre located approximately 900m north of the Land.

We offer to enter into a VPA to construct a shared pedestrian/cycle path along Broken Head Road from the Land to the Suffolk Park neighbourhood centre, as indicated on the below concept plan:



Public benefits

This proposed section of shared path will connect into the proposed continuous shared path along Broken Head Road between Suffolk Park and Byron Bay. It will:

1. Encourage active transport use, consistent with objective 16 of the North Coast Regional Plan 2041.
2. Provide new residents of the Land with a safe active transport route into Suffolk Park and encourage an active, connected community (linking the Land with Suffolk Park), consistent with the Byron Local Strategic Planning Statement planning priority to *create great places that support and encourage an active, connected community*; and
3. Improve cyclist and pedestrian access between Suffolk Park/Byron Bay and natural assets such as the Ti-Tree Aboriginal Area, Broken Head Beach, and Broken Head Nature Reserve, consistent with the Byron Shire Bike Plan 2019.

The proposed path could be contained within the current road reserve, avoiding the need for any acquisition of land, and is likely to cost in the order of \$750,000.

Exclusion of sections 7.11/7.12

The VPA will not exclude the operation of sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979 (the Act)* to the future development of the Land.

Timing of provision of contributions

The shared pathway would be completed in conjunction with the future residential subdivision of the Land.

Registration on title

We will agree to the registration of the VPA the title of the Land. The VPA should be removed from the title of residential lots immediately before they are created, provided that we are in compliance with all of our obligations under the VPA at that time. The VPA will also be removed from the title of the Land upon completion of the shared pathway.

Enforcement mechanisms

In addition to registration on title, our obligations under the VPA would be secured by the restriction on the issue of subdivision certificates, which has statutory force under section 6.15(1)(d) of the Act.

We also note that Council will be the authority responsible for issuing the subdivision certificates and therefore will easily be able to satisfy itself that any VPA obligations have been met prior to the issue of a subdivision certificate.

Other issues

We confirm that we will pay Council's reasonable costs associated with preparation, negotiation, and entering into the VPA.

We acknowledge that the VPA will contain other terms to be negotiated between the parties, which will not be inconsistent with the benefits proposed in this letter of offer.



William Sarkis

Development Director

28 March 2024

Mark Arnold
General Manager
Byron Shire Council

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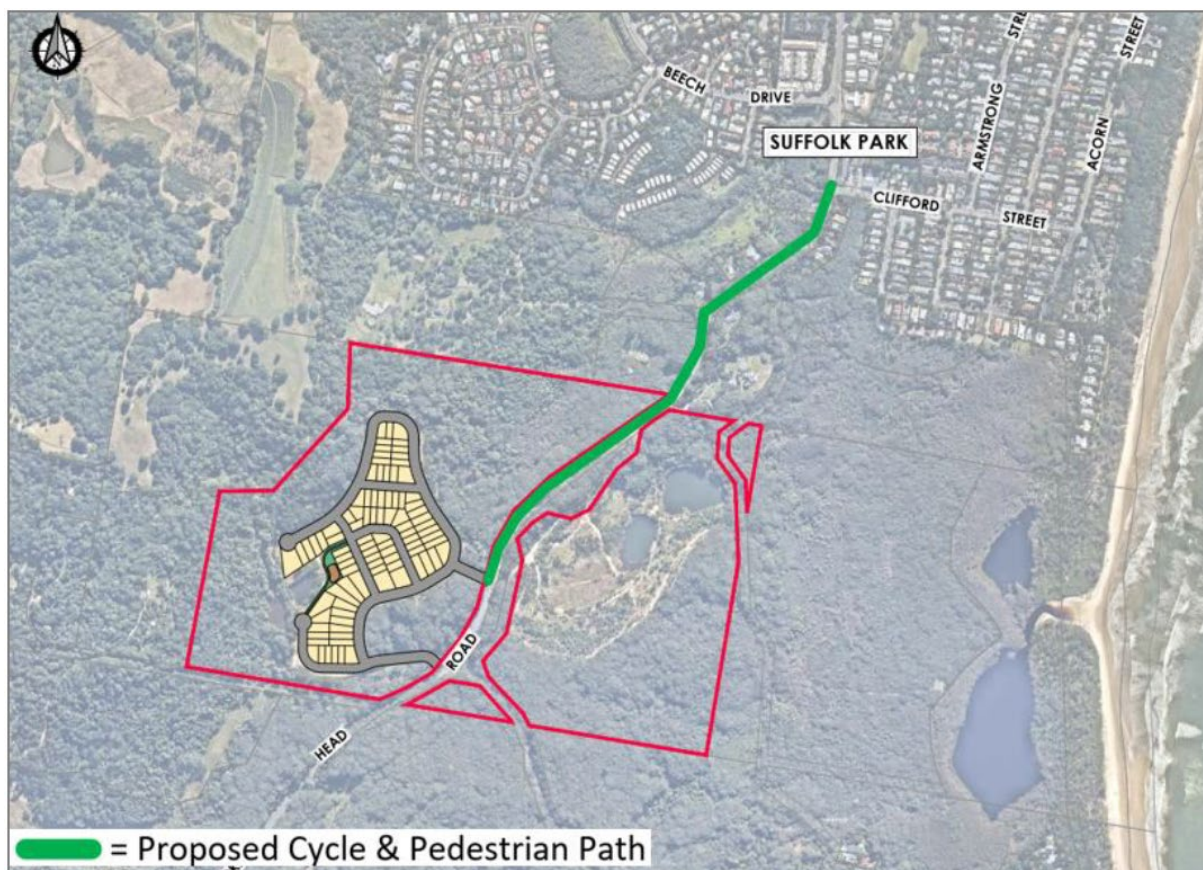
Planning Proposal for Residential Rezoning of Part of Former Broken Head Quarry – Offer to Enter into Voluntary Planning Agreement

Winten Property Group, on behalf of Crisjoy Pty Ltd ATF Lighthouse Unit Trust, offers to enter into a Voluntary Planning Agreement (VPA) in connection with the above Planning Proposal.

As explained in the Planning Proposal Report prepared by SLR Consulting, dated March 2023, the site (**the Land**) is located on the fringes of an existing urban area, with Suffolk Park neighbourhood centre located approximately 900m north of the Land.

We offer to enter into a VPA to:

1. Dedicate 20% of lots to Council to be used for the purpose of Affordable Housing; and
2. Construct a shared pedestrian/cycle path along Broken Head Road from the Land to the Suffolk Park neighbourhood centre, as indicated on the below concept plan:



Public benefits

We understand that there is an acute shortage of affordable housing in the Byron local government area. The dedication of 20% of the lots for Affordable Housing will provide much needed residential land for housing low to moderate income households.

The proposed section of shared path will connect into the proposed continuous shared path along Broken Head Road between Suffolk Park and Byron Bay. It will:

1. Encourage active transport use, consistent with objective 16 of the North Coast Regional Plan 2041.
2. Provide new residents of the Land with a safe active transport route into Suffolk Park and encourage an active, connected community (linking the Land with Suffolk Park), consistent with the Byron Local Strategic Planning Statement planning priority to *create great places that support and encourage an active, connected community*; and
3. Improve cyclist and pedestrian access between Suffolk Park/Byron Bay and natural assets such as the Ti-Tree Aboriginal Area, Broken Head Beach, and Broken Head Nature Reserve, consistent with the Byron Shire Bike Plan 2019.

The proposed path could be contained within the current road reserve, avoiding the need for any acquisition of land, and is likely to cost in the order of \$750,000.

Exclusion of sections 7.11/7.12

The VPA will not exclude the operation of sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979 (the Act)* to the future development of the Land.

Timing of provision of contributions

The Affordable Housing lots will be dedicated upon registration of the plan of subdivision.

The shared pathway would be completed in conjunction with the future residential subdivision of the Land.

Registration on title

We will agree to the registration of the VPA the title of the Land. The VPA should be removed from the title of residential lots immediately before they are created, provided that we are in compliance with all of our obligations under the VPA at that time. The VPA should also be removed from the title of the Land upon completion of the shared pathway.

Enforcement mechanisms

In addition to registration on title, our obligations under the VPA would be secured by the restriction on the issue of subdivision certificates, which has statutory force under section 6.15(1)(d) of the Act.

We also note that Council will be the authority responsible for issuing the subdivision certificates and therefore will easily be able to satisfy itself that any VPA obligations have been met prior to the issue of a subdivision certificate.

Other issues

Although section 7.4 of the Act does not explicitly provide for a VPA to exclude the operation of section 7.32, we note that the offer to provide 20% of lots for Affordable Housing is made in circumstances where there is not currently any Affordable Housing Scheme that applies to the Land. Should such a scheme be adopted for the Land in the future, the development would not be feasible if Affordable Housing was required under both the VPA and a condition of development consent. The offer to make the Affordable Housing Contribution is therefore conditional on the VPA

containing a provision that would relieve us of the obligation to make the Affordable Housing Contribution in the event that a condition of consent is imposed under section 7.32.

We confirm that we will pay Council's reasonable costs associated with preparation, negotiation, and entering into the VPA.

We acknowledge that the VPA will contain other terms to be negotiated between the parties, which will not be inconsistent with the benefits proposed in this letter of offer.

Yours sincerely



William Sarkis
Development Director