

3rd July 2024
Our Ref: S_1930.4692

The General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Dear Sir

RE: Development Application and Statement of Environmental Effects – church alterations and additions - 20 Centennial Circuit, Byron Bay, Lot 1 DP 812667

PLANNERS NORTH has been engaged by Eastgate Christian Community Incorporated, the owner of the abovementioned land, to provide Town Planning advice with respect to the preparation and lodgement of a Development Application with Byron Shire Council in regard to land described as 20 Centennial Circuit, Byron Bay, being Lot 1 DP 812667.

The documents accompanying the application include:

- Architectural Plans;
- Stormwater Drainage Plans;
- Land Owners Authority;
- Annual Fire Safety Approval;
- Estimate of Cost; and
- Bushfire Assessment.

THE SITE

The subject site is described in Real Property terms as Lot 1 DP 812667. The site has an area of approximately 2062m² and is generally rectangular in shape. Access to the site is via Centennial Circuit.

The site contains an existing church building. Land immediately to the west of the site is zoned but undeveloped industrial land. Eastward of the site around Centennial Circuit is a mix of light industrial type uses. Further to the northeast, about 100m from the church building, is the newly erected TAFE building. At the rear of the TAFE building and to the north of the subject site is an area of environmental land that is owned by Council and is intended to be maintained for biodiversity purposes.

The subject site is located approximately 4.1 km or 8 minutes' drive from Byron Bay Post Office.

Site Diagram



SITE HISTORY

A brief history of the development approvals applicable to the land is set out below:

- Development Application no. 5.1992.189.1 for a Community Centre/Assembly Hall was approved by Council on 6th August 1992.
- Development Application no. 1993.2038.1 for a Community Centre was approved by Council on 7th May 1993
- Development Application no. 10.2007.246.1 for Additions to a place of public worship was approved on 2nd July 2007.
- Development Application no. 10.2010.162.1 for Additions to the existing church comprising a new 9m x 13m building for user as storage & children's facility was approved on 17th June 2010.

THE PROPOSAL

The subject application seeks development consent for a 5.94m extension to the existing auditorium, alterations and additions to the roof and certain openings to accommodate the auditorium extension, covered verandah, alterations to the ablutions, and alterations to the existing stormwater drainage system.

The estimated cost of the development is \$264,000.

S.4.15 EVALUATION

SECTION 4.15(1)(A) STATUTORY CONSIDERATIONS

Pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979, a number of statutes are potentially applicable to any single development proposal. This section reviews the range of instruments and notes their application in terms of the subject development application proposal.

DEEMED ENVIRONMENTAL PLANNING INSTRUMENTS

No deemed environmental planning instruments apply to the subject land.

LOCAL ENVIRONMENTAL PLANS

Name: Byron Local Environmental Plan 2014, (BLEP14)

Application in Subject Case:

The subject site is zoned E4 General Industrial in accordance with the provisions of BLEP14.

Concurrence:

No authorities are required to issue concurrence before the development may lawfully be carried out.

Advertising:

Advertising of this development is not required under the provisions of BLEP14.

Arrangements:

No special arrangements are required before consent can be granted.

Special Provisions Applicable:

The following provisions of BLEP14 are applicable to Council's consideration of the subject proposal.



Zone E4 General Industrial

1 Objectives of zone

To provide a range of industrial, warehouse, logistics and related land uses.

- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.
- To provide for creative industrial uses such as artisan and cultural industrie

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Local distribution premises; Markets; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Rural supplies; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Rural industries; Sex services premises; Tourist and visitor accommodation; Truck depots; Water recreation structures; Water supply systems; Wharf or boating facilities

Comment:

A Place of Public Worship is a permissible use with development consent in the E4 zone. The church land use is consistent with the objective which seeks to enable non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.

Zoning Map



Legend E4 - General Industrial

4.4 Floor Space Ratio

(1) The objectives of this clause are as follows—

- (a) to ensure that new buildings are appropriate in relation to the character, amenity and environment of the locality,
- (b) to enable a diversity of housing types by encouraging low scale medium density housing in suitable locations,
- (c) to provide floor space in employment and mixed use zones adequate for the foreseeable future,
- (d) to regulate density of development and generation of vehicular and pedestrian traffic,
- (e) to set out maximum floor space ratios for dual occupancy in certain areas.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), the maximum floor space ratio for dual occupancies on land in Zone R2 Low Density Residential is 0.5:1.

Comment:

The floor space of the proposal is 555m² with a resultant Floor Space Ratio of 0.27:1.

Floor Space Ratio Map



Legend 0.9 - 0.94

4.3 Height of buildings

(1) The objectives of this clause are as follows—

- (a) to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet,
- (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,
- (c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Comment:

The roof of the existing auditorium is being extended but the general building height is not increased. The height of the existing auditorium is 5.26m.

Height of Buildings Map



Legend 9 - 9.9 m

6.1 Acid sulfate soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Class of land	Works
1	Any works.

2	<i>Works below the natural ground surface. Works by which the watertable is likely to be lowered.</i>
3	<i>Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</i>
4	<i>Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</i>
5	<i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i>

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—

(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and

(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—

(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,

(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),

(c) minor work, being work that costs less than \$20,000 (other than drainage work).

(6) Despite subclause (2), development consent is not required under this clause to carry out any works if—

(a) the works involve the disturbance of less than 1 tonne of soil, and

(b) the works are not likely to lower the watertable.

(7) Despite subclause (2), development consent is not required under this clause for the carrying out of works for the purpose of agriculture if—

(a) a production area entitlement is in force in respect of the land when the works are carried out, and

(b) the works are carried out in accordance with a drainage management plan, and

(c) the works are not carried out in respect of a major drain identified on the Acid Sulfate Soils Map, and

(d) the works are not carried out on land identified as “coastal wetlands” on the Coastal Wetlands and Littoral Rainforests Area Map, within the meaning of State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2.

Acid Sulfate Soils Map



Legend Class 3

Comment:

No work is likely to be carried out more than 1m below the natural ground surface, and accordingly, it is not thought necessary to provide an Acid Sulfate Soils Management Plan with this Development Application.

6.6 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

Comment:

All requisite essential services are available on-site and meet the development needs.

DEVELOPMENT CONTROL PLANS

Name: Byron Shire Development Control Plan (BDCP14)

Applicable components of Council's Development Control Plan are set out below.

The provisions of Chapter D5 relevant to the subject development. The various sections of that DCP are listed below:

D5.2.1 Building Lines**Comment:**

The proposed alterations and additions are to the rear of the premises and do not alter the existing primary building line.

D5.2.2 Building Criteria**Comment:**

The proposal does not alter the front elevations of the building and the alterations and additions are consistent with the objectives of this clause.

D5.2.3 Water and Sewer Services**Comment:**

All relevant utilities and services, including reticulated water and sewer are available to the site. The existing waste arrangements are satisfactory to continue.

D5.2.4 Energy Efficient Industrial Development**Comment:**

The new building works have been designed to maximise environmental sustainability and energy efficiency.

D5.2.5 Water Sensitive Urban Design and Industrial Development**Comment:**

The alterations to the stormwater drainage system to account for the alterations and additions have been designed to ensure the development achieves an acceptable level of stormwater runoff quality and quantity.

D5.2.6 Car Parking and Access

Comment:

In the consideration of the development application DA2010/162 the officers report opined *"The previous application advised a congregation of 100 persons and additional maximum youth activity numbers of 50 persons with no overlap. This application is for a children's church but there is no information on the additional traffic generation. If the children's church is held at the same time as the existing, it is unlikely that there will be an increase in car parking requirements as the children would be there at the same time as their parents. If the children's church is held at a different time to the existing, there will be less of a demand than the existing church.*

Parking is required at the rate of 1 space per 10 seats (parishioners) indicating a minim of 10 spaces.

Spaces Required = 10 spaces

Spaces Existing = 24 spaces "

The additions proposed will increase the theoretical capacity of the auditorium by 100 persons. Based on the assessment of DA2010/162 and the terms of BDCP14, no additions to the existing parking supply are required.

D5.2.7 Landscaping and Screening

Comment:

No alterations affect the landscape and screening as seen from Centennial Circuit.

D5.2.8 Signage

Comment:

The alterations proposed do not alter the situation concerning site signage.

STATE ENVIRONMENTAL PLANNING POLICIES

A search undertaken on the NSW Planning Portal on 13th May 2024 indicated that the following SEPPs as being applicable to the land.

- SEPP (Biodiversity and Conservation) 2021
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing) 2021
- SEPP (Industry and Employment) 2021
- SEPP (Planning Systems) 2021
- SEPP (Primary Production) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Resources and Energy) 2021
- SEPP (Sustainable Buildings) 2022
- SEPP (Transport and Infrastructure) 2021
- SEPP No 65—Design Quality of Residential Apartment Development SEPP (Transport and Infrastructure) 2021

Of these SEPPs, the following have particular relevance to the subject application.

Title: SEPP (Sustainable Buildings) 2022

Gazetted: 01.10.2023

Abstract:

The aims of this Policy are as follows—

- (a) to encourage the design and delivery of sustainable buildings,

- (b) to ensure consistent assessment of the sustainability of buildings,
- (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,
- (d) to monitor the embodied emissions of materials used in construction of buildings,
- (e) to minimise the consumption of energy,
- (f) to reduce greenhouse gas emissions,
- (g) to minimise the consumption of mains-supplied potable water,
- (h) to ensure good thermal performance of buildings

Chapter 3 Standards for non-residential development

3.1 Application of Chapter

(1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—

- (a) the erection of a new building, if the development has a capital investment value of \$5 million or more, or
- (b) alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.

Comment:

The proposed development is well below the cost of construction threshold.

Title: State Environmental Planning Policy (Resilience and Hazards) 2021

Published: 1st March 2022

Abstract:

The aim of this policy is to specify specific arrangements for Coastal management; hazardous and offensive development and remediation of land.

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless—
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is—
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—
- (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Comment:

The alterations and additions proposed are such as not to cause a need for site investigation in relation to contamination.

CERTIFIED DRAFT PLANS

No certified draft plans have particular relevance to the subject application.

THE REGULATIONS

No specific provisions of the Environmental Planning & Assessment Regulation are of particular relevance to the subject application.

INTEGRATED DEVELOPMENT CONSIDERATIONS

The following integrated approval pursuant to Section 4.46 applies to this project:

Act	Provision	Approval
Rural Fires Act 1997	s 100B	authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes

Comment

A brief in relation to Bushfire Management aspects accompanies the Development Application documentation.

SECTION 4.15(1)(b) ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) requires that the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, be considered and the implementation of best practice environmental assessment processes.

Comment:

The environmental impacts of the development have been identified by on-site inspection, review of the development history of the site, examination of various town planning databases and conventional environmental impact assessment processes.

The proposed development is not considered likely to result in significant adverse environmental impacts. Any minor matters that could potentially impact the environment will be satisfactorily addressed by way of the Council standard conditions of development consent.

SECTION 4.15(1)(c) SUITABILITY OF SITE

Section 4.15(1)(c) requires that the suitability of the site for the development, be considered.

Comment:

The site is not flood-prone, nor is it subject to any geotechnical instability. However, the land is bushfire-prone and is mapped as being in a “vegetation buffer”.

An expert report has been prepared to assess the relevant circumstances concerning bushfire management.

In our view, the subject site is suitable for the proposed development.

Bushfire Map



Legend Vegetation Buffer

SECTION 4.15(1)(d) SUBMISSIONS

Section 4.15(1)(d) requires that any submissions made in accordance with this Act or the regulations, be considered.

Comment:

Any submissions received in response to the notification of the application will be considered in due course.

SECTION 4.15(1)(e) PUBLIC INTEREST

Section 4.15(1)(e) requires that requires that the public interest be considered.

Comment:

The proposed development is considered to be consistent with the public interest because it provides for minor alterations to an existing approved use which services the local community.

PART 7 OF BIODIVERSITY CONSERVATION ACT 2016 AND PART 7A OF FISHERIES MANAGEMENT ACT 1994

Pursuant to Section 1.7, “This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.”

The land is not listed as critical habitat. The development is not likely to significantly affect threatened species, populations or ecological communities, or their habitats.

CONCLUSION

The proposal to make alterations and additions to the existing East Gate Church is a product of many factors. Those factors include:

- the continuing need for a Place of Public Worship in the locality;
- policies of all levels of government to promote the orderly development and use of land which can be demonstrated to be suitable for church type land use; and
- the site planning opportunities presented by the existing property.

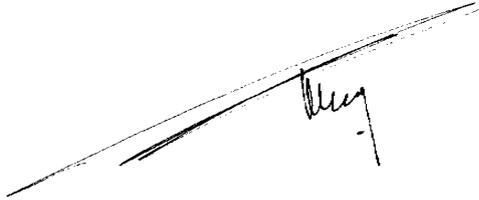
The proposed development application is permissible in accordance with the provisions of BLEP14 and is consistent with BDCP14.

In our opinion, the development can be seen to satisfy a legitimate need for a Place of Public Worship and is capable of use in a manner which mitigates potential adverse impacts consistent with the zone objectives detailed in Council’s LEP. The approval of the proposed development would be in the public interest within the meaning of Section 4.15(1) (e) of the Act.

Should Council require any additional information or wish to clarify any matter raised by this proposal or submissions made to same, the Council is requested to consult with the writer prior to the determination of this application.

Yours faithfully,

PLANNERS NORTH

A handwritten signature in black ink, appearing to read 'Stephen', is written over a diagonal line that extends from the bottom left towards the top right of the page.

Stephen Connelly RPIA (Fellow), CEnvP-IA
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