



LATE ITEMS

Ordinary Meeting 25 October 2018

Held at Ballina Shire Council Chambers
40 Cherry Street Ballina

Table of Contents

8.	Development and Environmental Health Group Reports.....	1
8.5	70 Shelly Beach Road East Ballina - The Beach House	1
16.	Confidential Session.....	3
16.2	Legal Proceedings - 70 Shelly Beach Road East Ballina	3

DISCLAIMER ©NSW Spatial Services 2017. Although all care is taken in the preparation of plans within Council's business paper (both agendas and attachments), Ballina Shire Council accepts no responsibility for any misprints, error, omissions or inaccuracies. The information contained within each plan is for pictorial representation only and not to scale. Accurate measurements should be undertaken by survey.

8.5 70 Shelly Beach Road East Ballina - The Beach House

8. Development and Environmental Health Group Reports

8.5 70 Shelly Beach Road East Ballina - The Beach House

Delivery Program Development Services

Objective To inform the Council about building activity and works that have been undertaken at 70 Shelly Beach Road, East Ballina

Background

Council staff have been investigating building activity and works at 70 Shelly Beach Road East Ballina (Lot 1 DP 781525) since August 2018. This property is commonly known as The Beach House (formerly Gunundi and Dunes).

Council's initial attendance at the premises was in response to complaints received in early August 2018.

In summary, substantial works including building works and land forming have been undertaken at the site. The key issue in relation to this matter is whether necessary approvals have been obtained for various aspects of the works. The landowner has largely relied on exempt development provisions under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as the basis for the work undertaken.

Council staff have undertaken multiple site inspections and have sought legal advice in relation to the works. Council's investigations and the legal advice received are discussed separately in an associated confidential report.

Key Issues

- Approach to works undertaken at 70 Shelly Beach Road having regard for the requirements of the *Environmental Planning and Assessment Act* and associated Regulation and instruments.

Information

As outlined above, Council staff have been investigating a variety of works that have been undertaken at 70 Shelly Beach Road East Ballina.

Council staff have sought legal advice in relation to the works and the landowner's reliance of the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as the basis for undertaking the works.

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**
Not Applicable

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Legal implications associated with this matter are the subject of a separate confidential report to the Council.

As this report and the confidential report have not been included in the original business paper they can only be considered at the October 2018 Ordinary Council meeting if Council considers the items to be of an urgent nature.

The reason provided for the urgent nature of the reports is that the reports relate to legal action and the timing is urgent as Council needs to consider immediate commencement of legal proceedings due to the nature of the on-going works.

Consultation

Council staff have sought legal advice in relation to this matter. The advice is the subject of a separate confidential report.

Options

The primary purpose of this report is to provide an open Council overview of the basis for the confidential report. The recommendation is for the noting of the report on this basis. The consideration of this report first requires an urgency motion to be supported.

RECOMMENDATION

That Council notes the contents of this report which provides an introduction to a confidential report addressing works undertaken at 70 Shelly Beach Road East Ballina.

Attachment(s)

Nil

16. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

16.2 Legal Proceedings - 70 Shelly Beach Road East Ballina

Refer to Item 8.5 – Late Report to this meeting.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

16.2 Legal Proceedings - 70 Shelly Beach Road East Ballina

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.