

**From:** Ross and Cathy Brown [mailto:rossandcathy.brown@yahoo.com.au]  
**Sent:** Sunday, 3 March 2019 9:50 PM  
**To:** Leah Toole; Malcolm Fox  
**Cc:** Ross Brown  
**Subject:** Hutley Drive Extension - Residents Response

Dear Malcolm & Leah

While my wife and I appreciated the time recently given via phone to discuss the council plans for this area we are again disappointed by the lack of consideration given by council with regards to the direct impact their proposals have on residents, owners and ratepayers. This proposal for the Hutley Drive extension and the council's plans for the reserve are again an example of this.

We have owned the land at 9 Ocean breeze Drive for over 20 yrs and in that time have had to object many times to unreasonable plans posed by the council that would have altered the original use for this area. We again see council adjusting their town plans with little consideration of the impact of these plans to existing owners. When purchasing our property we were enticed by the public reserve on our western boundary but also realised that the unformed road reserve on our southern boundary maybe developed over time but not to the extent that is currently being proposed by the Hutley Drive extension which will virtually wrap around two sides of our property. On several occasions we have had to object to council's plans for the use of the reserve as it limited the public's use of the land. These objections were for projects such as a bush fire brigade headquarters, a council depot, BMX tracks, bikeways and now a public park, amenity facilities and a community garden. In all these projects we have had to question the value the council places on their own planning process and the respect they show to immediate residents and ratepayers.

While we understand the need to plan for infrastructure improvements we would strongly challenge council to respect the decisions made by existing owners to purchase property in the area at great expense based on environmental conditions and zoning existing at the time and as such any significant changes needs to be incorporated into the planning of new developments thereby limiting the impact on existing residents, ratepayers and council voters.

This should be the case with regards to the Hutley Drive extension. Planning for this extension could and was incorporated into the plans for the new residential development on our southern boundary. I ask the council why the change from those initial planning proposals to this new proposal especially considering the extra expense that the latter has incurred on ratepayers firstly for the acquisition of Lot 2 for this proposal and secondly for the construction costs of the project? We question the council as to why this proposal exists at great expense to ratepayers when it could be have been more cost effective to include these plans in the adjacent residential land development thereby sharing the costs between the developer, council and ratepayers. Basically what are the costs of this new Hutley Dr. extension proposal to ratepayers and what is the contribution by developers? For comparisons please provide a costing assessment of the initial development proposals and those of the new proposal costs.

With regards to the environmental impact the Hutley Drive Extension will have on our property we question the validity of the council's environmental report that indicates the noise level will increase by only 3% even with the provision of sound barriers. With regards to the Ballina / Byron/ Bay bypass construction the noise level increase was and is considerable despite the noise barrier mounds constructed. We would like to know how this assessment was derived given that presently there is no traffic passing directly around our property and even with the proposed inadequate sound reduction

options presented (sound barrier fence) the extension will bring quite a significant increase in traffic and consequently noise pollution to our property?

Further to our property concerns regarding the Hutley Dr. extension this project will cause fundamental public main roads issues with regards to traffic flow and public safety. As these concerns are supported by advice from an independent consultant we question this project due to the impact it will have on traffic conditions for several reasons:

- The proposed roundabout on the Ballina / Byron Bypass will result in 2 x roundabouts within a hundred metres of each other. This will severely impact the safe and efficient flow of traffic along this busy main thoroughfare especially for heavy trucks, buses and caravans.
- The construction of the extension will include in a significant curve causing unsafe traffic conditions. Such a road development proposed by the Hutley Dr. extension will heighten the risk of possible accidents caused by vehicles losing control on such a sharp downhill corner.
- As these conditions are a major consideration in any planning they are generally avoided in any new development. Given these planning requirements why is this proposal even been considered?

In addition to further our understanding of the impact of the proposal on our property I request a firm indication in writing from council on the following:

- The height of the new road adjacent to our property.
- Full details of any effective noise reduction plans for affected landowners.
- Full details of any privacy and security measures for affected landowners
- Proposal for the use of the unformed land from Lot 2.
- Compensation to owners for loss of property value.

I again stress that the impact of this proposal on residents, owners and ratepayers could have been greatly lessened if plans for this project were incorporated into the plans for the existing residential land development adjacent to our southern boundary. In an effort to understand the council rationale for making this new development proposal I would like a response as to why this is now not the case especially as it was included in earlier proposals.

We look forward to your response

Ross & Cathy Brown  
9 Ocean Breeze Drive  
Lennox Head

**From:** Mari-anne Cox [mailto:m-annec@hotmail.com]  
**Sent:** Friday, 1 March 2019 1:23 PM  
**To:** Leah Toole; malcome.fox@ballina.nsw.gov.au  
**Subject:** Hutley Drive Northern Extension

To Ballina Shire Council,

Re: Hutley Drive Northern Extension

We are writing this letter in relation to the proposed new road which is being built directly behind our home in 7 Ocean Breeze Drive, Lennox Head. We have attended three meetings now with Council Staff to gain information about the devastating changes which Council are planning around us, which also includes a Community Garden and Toilet Block at our front door and a new road to service new estates, existing estates, and a new Woolworths shopping centre at our back door. We were assured that no plans were set in motion yet and that the purpose of the meetings was purely to inform us of the purchase of Condon's farm and possible options Council were looking at.

One of three proposals put forward was that a road may be built behind our homes with Council perhaps giving us the small portion of land left between us and the road and we were also told there would be a Sound proof wall or a Nature Mound between us and the road, or double glazed windows to ensure our privacy and to eliminate noise, but at that early stage it was all "maybe's".

On the 13 February Malcome Fox met with us and showed us the plans and studies which Council has had commissioned, which has left our Privacy, security and any regard for traffic noise inflicted on us by this road, totally ignored, not to mention the devaluing of our properties. We are going to have:

- \* 3 metre high road, overlooking our pool and main living rooms and bedrooms which have large windows, exposed so that every car, bike, bus, truck and pedestrian using the road, will definitely look straight into our home and backyard.
- \* Traffic noise all these vehicles will create. Council's report suggests this will only be approximately 3% more noise than we currently have, which is totally absurd because all the Meadows traffic will be diverted along the new road as well as all the new Lots of land coming up for sale, the new Estates which have already been established and it is logical to predict that all these new homes will have one or two cars per home, using the road.
- \* Woolworths shopping centre will have delivery trucks driving too and from their store.
- \* It will be a main link to schools, meaning buses and extra cars.
- \* Our Property Value will decrease.
- \* Security of our home is now exposed to anyone using the road.
- \* Will the Rural Fire Service and proposed Pre School also be using this road?

I would like to thank all the Council representatives who have met with us because they have all been very nice and respectful at these meetings, but I feel that Ballina Shire Council on the whole, has betrayed us and the faith we put in our elected representatives to put forward a plan that is **fair to both us and Council**. Council has gained:

\* Council has saved **millions** of dollars by acquiring this land, saving them from relocating the Telstra building.

\* This road has enabled Council to open up new land allotments for sale and better access to new and existing estates, schools and the proposed new Woolworths.

We would like to plead with Council to reconsider us and:

\* Extend the Sound Proof Wall to 3 metres high and build it the whole distance from the Roundabout to the end of No.9 Ocean Breeze property as this will help ensure our privacy, security and eliminate some of the road noise.

\* Council is unsure of how it will maintain the small parcels of land behind our property and we would like Council to gift this land to us so it does not become overgrown.

\* Double glazing of our exposed windows so we can shut out the noise.

\* And ducted air conditioning because our hot summers will be unbearable with all our windows closed.

I have spoken to our neighbours and we request a meeting with the Council General Manager and other stake holders involved in this project.

Awaiting your reply.

Ray and Mari-anne Cox



Our Ref: DOC19/76695  
Your Ref: BSCPP 17/009 – Byron Bay Road, Lennox Head (19/6753)

General Manager  
Ballina Shire Council  
P.O. Box 450  
Ballina NSW 2478

Attention: Ms Leah Toole

Dear Mr Hickey

**Re: Planning Proposal for 9 Byron Bay Road, Lennox Head**

Thank you for your letter dated 29 January 2019 about the planning proposal to rezone land at 9 Byron Bay Road, Lennox Head seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

The OEH has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats), Aboriginal and historic heritage, National Parks and Wildlife Service (NPWS) estate, flooding and estuary management.

We have reviewed the information provided and can advise that we do not have any issues to raise for Aboriginal and historic heritage, NPWS estate or flooding and estuary management. However, we have identified issues with the assessment for biodiversity as set out below:

The results of the ecological assessment undertaken by Biodiversity Assessments and Solutions in January 2019 recorded the littoral rainforest in the North Coast bioregion endangered ecological community (LR EEC) in the planning area, which is a criterion set out in the E zone review for establishing an E2 zone. However, the planning proposal does not include an E2 zone, despite the known occurrence of LR EEC and the threatened flora species, *Macadamia tetraphylla*, in the planning area.

Furthermore, Section 117 (now 4.55) Direction 2.1 requires environmentally sensitive areas to be protected and conserved. However, the planning proposal would apply an R2 zone to the entire planning area, the objectives of which are incompatible with protecting and conserving environmentally sensitive areas.

It is stated in Section 4.3 of the planning proposal that "a majority of the site is devoid of native vegetation and is of low habitat value, and where native vegetation exists, it is highly disturbed and fragmented, with little connectivity to local native vegetation communities of significance.

Locked Bag 914, Coffs Harbour NSW 2450  
Federation House, Level 8, 24 Moones Street,  
Coffs Harbour NSW 2450  
Tel: (02) 6659 8200 | Fax: (02) 6659 8281  
ABN 30 641 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

Therefore, habitat impacts at the site based on the proposal and potential future development would be negligible. The OEH does not concur with this statement given the planning proposal would facilitate future development likely to adversely affect confirmed threatened species and an endangered ecological community.

To address these issues the OEH recommends that, prior to finalising the planning proposal, the Ballina Shire Council should either:

1. Apply an E2 zone to areas of known habitat for the threatened species and the Littoral Rainforest endangered ecological community in the planning area; or
2. Enter into a planning agreement with the landowner that:
  - a. identifies an offset in accordance with the Biodiversity Assessment Method for the areas of high environmental value in the planning area and requires that offset to be provided prior to either:
    - i. release of the subdivision linen plan if the land is to be subdivided;
    - ii. issuing of the construction certificate if the land is to be otherwise developed; or
    - iii. commencement of works subject to a determination under Part 5 of the *Environmental Planning and Assessment Act 1979*;
  - b. indicates the offset specified in a. above is not required if the subsequent development application or activity assessment triggers the Biodiversity Offset Scheme.

If you have any further questions about this issue, Mr Don Owner, Senior Conservation Planning Officer, Conservation and Regional Delivery, OEH, can be contacted on 6659 8233 or at [don.owner@environment.nsw.gov.au](mailto:don.owner@environment.nsw.gov.au).

Yours sincerely

 28 February 2019

**DIMITRI YOUNG**  
Senior Team Leader Planning, North East Branch  
Conservation and Regional Delivery

Contact officer: DON OWNER  
6659 8233

**Ballina Shire Council Water and Sewer Section Comments**

"Wednesday, 5 July 2017 at 11:02:25 AM (GMT+10:00) Kerzinger, Klaus:"

This matter being reported to the 27 July 2017 Council meeting and will be tracked in InfoCouncil.

"Tuesday, 30 May 2017 at 10:39:05 AM (GMT+10:00) Swan, Andrew:"

Hi Klaus,

Yes the property is in close proximity to water and sewerage services, I'm not sure at this stage if there are hydraulic issues (pressure / gravitation of sewerage) but if there are then can be mitigated through design by the applicant.

Cheers,

Andrew

"Tuesday, 30 May 2017 at 10:36:18 AM (GMT+10:00) Kerzinger, Klaus:"

Hi Andrew

Could you please provide me with comments as to whether this property can be serviced with water and sewer if rezoned from rural to residential.

Thank you

Klaus Kerzinger



Our ref: OBJ17/11171

Mr Paul Hickey  
The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Attention: Klaus Kerzinger

Dear Mr Hickey

**Planning Proposal PP\_2017\_BALLI\_007\_00 to amend the Ballina Local Environmental Plan 2012**

I refer to your correspondence of 7 December 2017 requesting the Secretary's agreement to the consistency of the above proposal with section 117 Direction 3.5 Development Near Licensed Aerodromes.

I have considered this matter, and as a delegate of the Secretary, I have agreed that the proposal is consistent with the terms of the Direction.

Council can now proceed with the planning proposal in accordance with the requirements of the Gateway determination.

Should you have any further enquiries about this matter, I have arranged for Ms Heidi Naylor to assist you. Ms Heidi Naylor can be contacted on (02) 6641 6604.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Craig Diss'.

18 December 2017

**Craig Diss**  
Acting Director Regions, Northern  
Planning Services





**Australian Government**  
**Civil Aviation Safety Authority**

STAKEHOLDER ENGAGEMENT GROUP

CASA Ref: G17991

7 December 2017

Mr Klaus Kerzinger  
Strategic Planner  
Strategic and Community Facilities Group  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Email: [Klaus.kerzinger@ballina.nsw.gov.au](mailto:Klaus.kerzinger@ballina.nsw.gov.au)

Dear Mr Kerzinger

Thank you for your letter of 23 November 2017 addressed to Mr Daniel Eatock at the Civil Aviation Safety Authority (CASA) about proposed rezoning of land on Byron Bay Road, Lennox Head, NSW.

CASA has reviewed the proposal and has no concerns with the application, as it has no effect on the Obstacle Limitation Surface for the Ballina/Byron Gateway Aerodrome or on any of the aerodrome's procedures.

However, it is recommended that the proponent consider the specific issues which are contained in the attachment as part of any planning and development.

For further information or to discuss this matter please email [anaa.corro@casa.gov.au](mailto:anaa.corro@casa.gov.au).

I trust this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CHutton'.

Carolyn Hutton  
Manager  
Government and International Relations Branch

GPO Box 2005 Canberra ACT 2601. Telephone 131 757

**ATTACHMENT – CASA Recommendations**

**Departure and Approach Procedures**

Any proposed structures and cranes if used in construction should be referred to the procedure design organisation/s responsible for the maintenance of instrument flight procedures at the Aerodrome. Please be aware that there may be more than one organisation responsible for the procedures at the aerodrome.

To check which organisations are responsible you can view the procedures at: <http://www.airservicesaustralia.com/aip/aip.asp> then Departure and Approach Procedures. The logo on the bottom of each procedure plate indicates the design organisation responsible.

**Compliance with standards**

Any aerodrome developments to aviation facilities associated with the planning proposal need to be consistent with the requirements of Civil Aviation Safety Regulations 1998 Part 139 and the associated Manual of Standards. Further details are available on the CASA website. <https://www.casa.gov.au/standard-page/casr-part-139-aerodromes>

The National Airports Safeguarding Framework provides guidance on planning requirements for development that affects aviation operations. This includes building activity around airports that might penetrate operational airspace and/or affect navigational procedures for aircraft. The Framework consists of a set of guiding principles with six guidelines relating to aircraft noise, windshear and turbulence, wildlife strikes, wind turbines, lighting distractions and protected airspace. Further information is available from the following link: [https://infrastructure.gov.au/aviation/environmental/airport\\_safeguarding/nasf/](https://infrastructure.gov.au/aviation/environmental/airport_safeguarding/nasf/)

**Aerodrome operations**

Consultation should also be undertaken with the aerodromes operational management team to manage the following issues with developments adjacent to any aerodromes:

- **Airport master planning:** Council should ensure that the proposal does not affect any future development or upgrades planned by the aerodrome's operational management.
- **Obstacle limitation surfaces (OLS) and Procedures for Air Navigation Services – Aircraft Operations:** Prior to construction, the development and crane activity should be reviewed by the aerodrome's management team for the protection of these surfaces.
- **Wildlife hazard management plan:** Consideration needs to be given to the final heights and bird attractions of landscaping provisions which potentially may cause a risk to aviation activities.
- **Obstacle lighting:** The building and any construction cranes would need to be marked to comply with CASR 139 and associated MOS, paying particular attention to the quantity, type, luminescence and whether day and/or night marking is required.
- **Lighting in the vicinity of an aerodrome:** Any proposed non-aeronautical ground light in the vicinity of an aerodrome may by reason of its intensity, configuration or colour, cause confusion or glare to pilots and therefore might endanger the safety of aircraft.
- **Gaseous plume:** Exhaust plumes can originate from a number of sources and aviation authorities have established that an exhaust plume with a vertical gust in excess of 4.3 metres/second may cause damage to an aircraft airframe, or upset an aircraft when flying at low levels.
- **Control of dust:** During any construction the emission of airborne particulate may be generated which could impair the visual conditions.

GPO Box 2005 Canberra ACT 2601 Telephone: 131 757

**From:** Airport Developments [mailto:Airport.Developments@AirservicesAustralia.com]  
**Sent:** Wednesday, 22 November 2017 11:07 AM  
**To:** Klaus Kerzinger  
**Cc:** 'Airspace Protection'  
**Subject:** AIRSERVICES RESPONSE: BNA-MA-012 - Rezoning, Lots 1 & 2, DP620838, Byron Bay Road, Lennox Head [SEC=UNCLASSIFIED]

Hi Klaus,

I refer to your request for an Airservices assessment of rezoning lots 1 and 2, DP620838 Byron Bay Road, Lennox Head.

**Airspace Procedures**

With respect to procedures designed by Airservices in accordance with ICAO PANS-OPS and Document 9905, at the maximum structure height of 41m (135ft) AHD, the rezoning will not affect any sector or circling altitude, nor any instrument approach or departure procedure at Ballina Airport.

Note that procedures not designed by Airservices at Ballina Airport were not considered in this assessment.

**Communications/Navigation/Surveillance (CNS) Facilities**

The proposal for rezoning will not adversely impact the performance of any Airservices Precision/Non-Precision Nav Aids, Anemometers, HF/VHF/UHF Comms, A-SMGCS, Radar, PRM, ADS-B, WAM or Satellite/Links.

Kind regards,

Daniela Carrafa  
Operations Standards & Assurance  
Airservices  
Level 1, Building 330, Tower Road  
Tullamarine VIC 3043  
Phone: 03 9339 2182  
Email: [airport.developments@airservicesaustralia.com](mailto:airport.developments@airservicesaustralia.com)



Our ref: V17/176#85  
Your ref: Trim 1918

30 November 2017

General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Attention: Klaus Kerzinger  
[klaus.kerzinger@ballina.nsw.gov.au](mailto:klaus.kerzinger@ballina.nsw.gov.au)

Dear Sir/Madam

**Planning Proposal BSCPP 17/009 – Proposed rezoning of RU1 Primary Production land to R2 Low Density Residential, Byron Bay Road, Lennox Head**

Thank you for the opportunity to provide comment for the above proposal as per your correspondence dated 24 October 2017. The NSW Department of Primary Industries (NSW DPI) Agriculture provides advice to consent authorities about the protection and growth of agricultural industries and the resources upon which these industries depend to provide economic growth.

DPI Agriculture has reviewed the supporting documentation for the above planning proposal and provides no objections to the proposal given the strategic identification of the site as an urban growth area under the *North Coast Regional Plan 2036*, identification of this site as an urban release area historically in the *Lennox Head Structure Plan 2004*, and limitations for agriculture at the site given existing and future site constraints from surrounding residential development.

It is recommended that council have due consideration of suitable dwelling setback provisions from Byron Rd at the development application stage should the planning proposal be approved. This will aid in reducing any potential land use conflict with the grazing land to the north of the subject site.

Should you require clarification on any of the information contained in this response please contact Agricultural Resource Management Officer, Selina Stillman on (02) 66261215.

DPI Agriculture is working to ensure that the advice provided is of the highest quality. Please take some time to provide us with feedback on our work by completing a [short survey](#).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Lillian Parker'.

For Lillian Parker  
A/Manager Agricultural Land Use Planning

NSW Department of Primary Industries - Agriculture  
Locked Bag 21, Orange NSW 2800 | 161 Kite St, Orange NSW 2800  
Tel: 02 6391 3391 | Email: [landuse.ag@dpi.nsw.gov.au](mailto:landuse.ag@dpi.nsw.gov.au) | [www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au) | ABN: 72 189 919 072