



BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING

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Schedule 3 Form of special disclosure of pecuniary interest

submitted under Clause 4.25 of the Code of Conduct for Councillors

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.24(c) of the Byron Shire Council Code of Conduct for Councillors (the Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

[name of council or council committee (as the case requires)]

Report No. _____ to be held on the _____ day of _____ 201

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (<i>the identified land</i>)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has interest in the land (e.g. is owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (<i>the subject land</i>) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

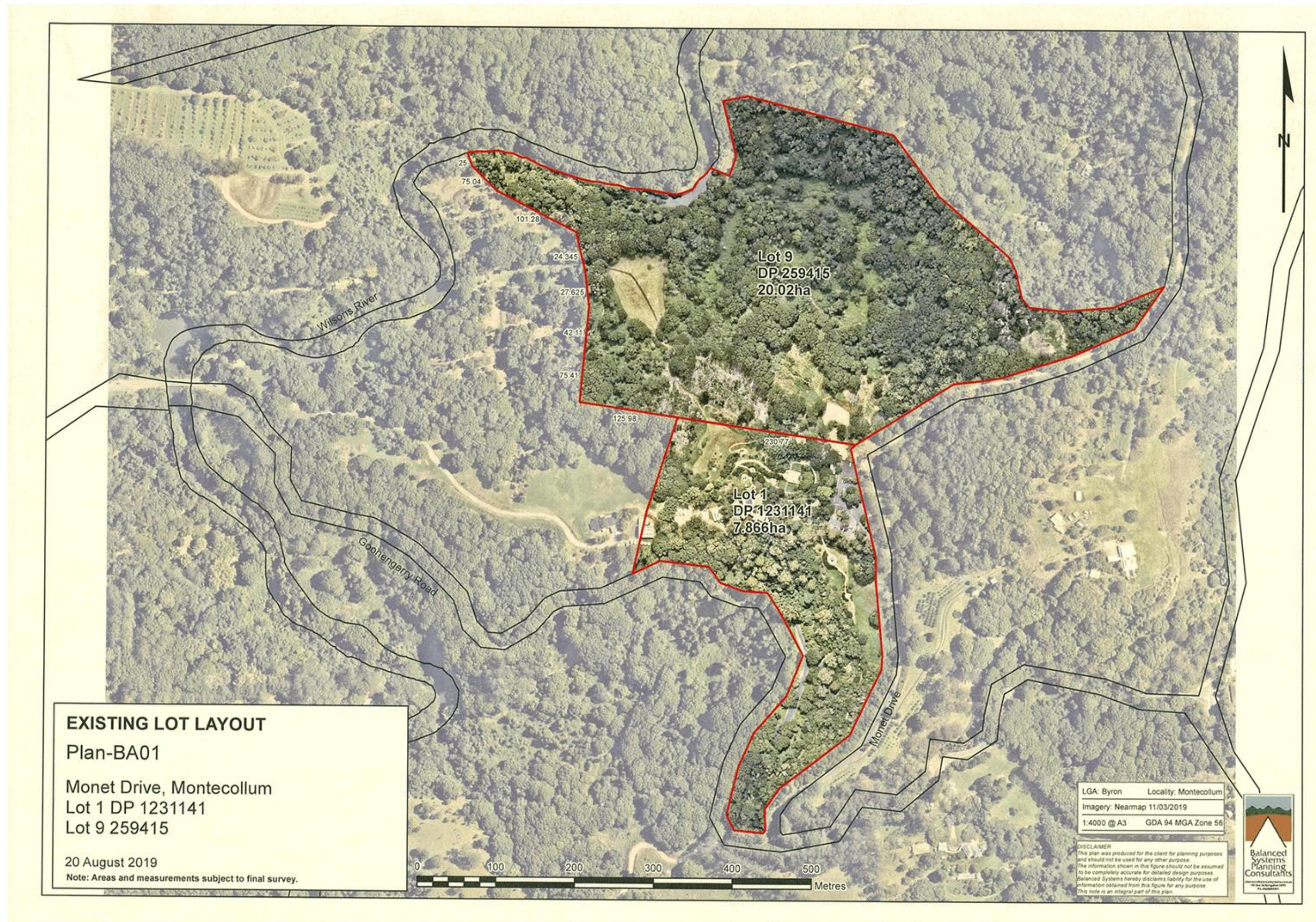
Date

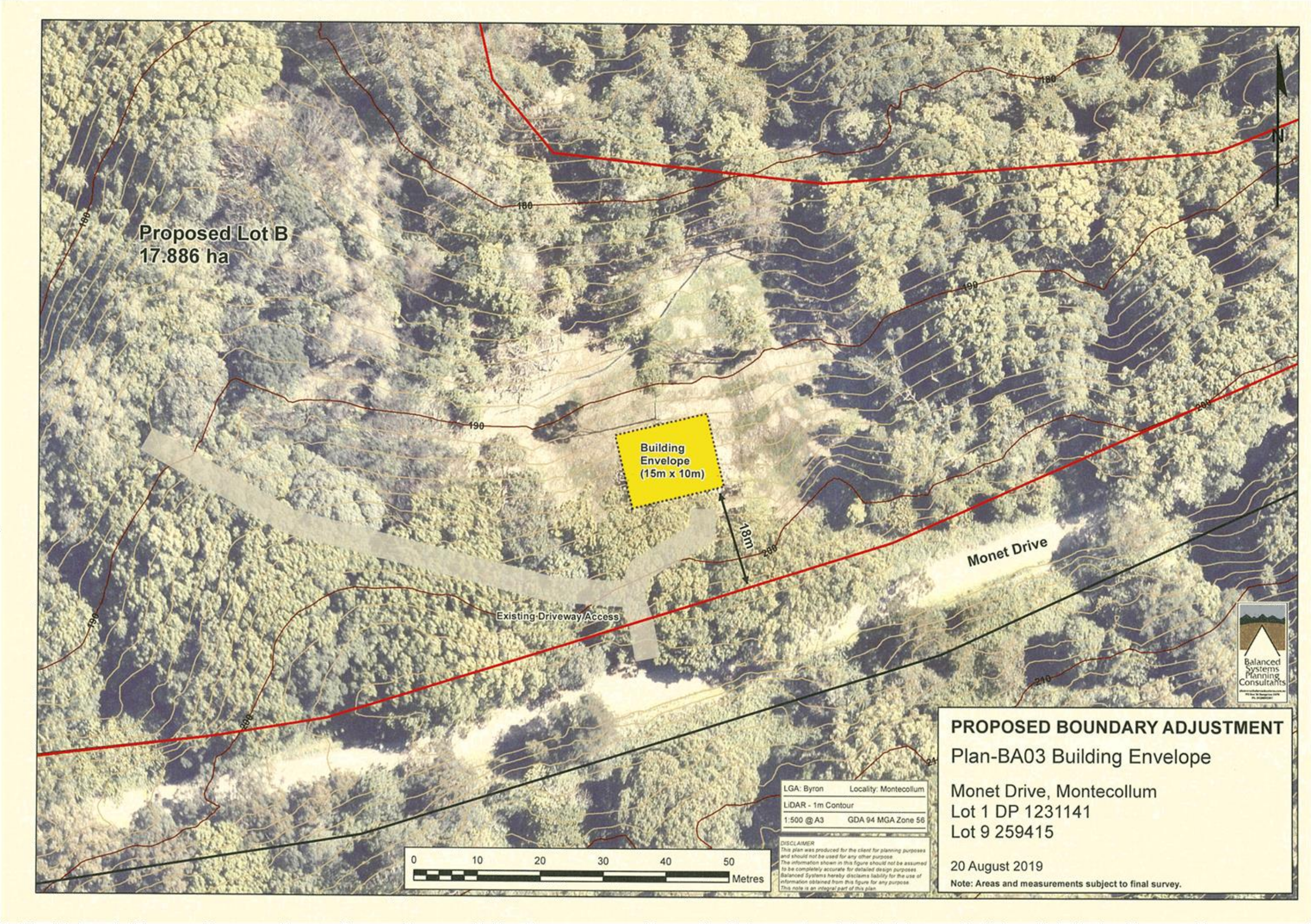
[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

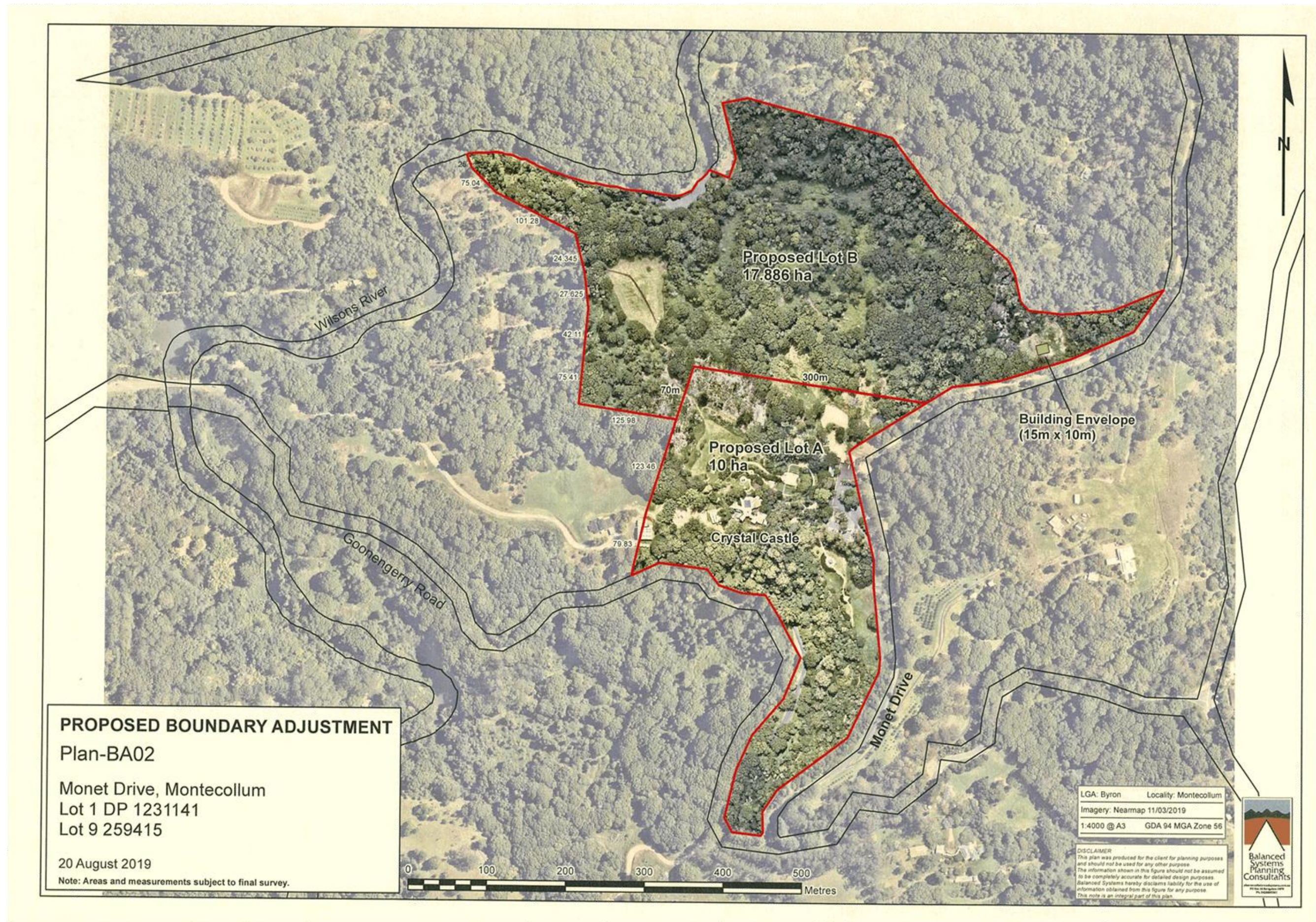
¹ Clause 4.1 of the Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Code of Conduct has a proprietary interest.

BYRON SHIRE COUNCIL
ORDINARY (PLANNING) MEETING









Planning,
Industry &
Environment

Our ref: EF19/23745
Your ref: 10.2019.275.1

Mr Mark Arnold
General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Dear Mr Arnold

Application under State Environmental Planning Policy No 1 for Boundary Adjustment at Lot 1 DP1231141, 45 Monet Drive, Montecollum and Lot 9 DP259415, Monet Drive, Montecollum

I refer to your letter of 29 July 2019 requesting the Secretary's concurrence in the above matter.

Following consideration of the application, concurrence has been granted to vary the 40 hectare minimum lot size development standard for land in the Zone 1(A) General Rural under the Byron LEP 1988 to enable the boundary adjustment between Lots 1 DP1231141, 45 Monet Drive, Montecollum and Lot 9 DP259415, Monet Drive, Montecollum.

Concurrence was granted in this instance for the following reasons:

- the proposal will not result in additional lots or opportunities for additional dwellings and will provide increased opportunities for the improved environmental management of the land;
- The areas of the existing lots are already significantly less than the 40 hectare minimum lot size development standard; and
- There is no public benefit in maintaining the development standard in this instance.

Should you have any further enquiries about this matter, I have arranged for Ms Rebecca Carpenter to assist you. Ms Carpenter can be contacted on 6643 6421.

Yours sincerely

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

13 September 2019

Craig Diss
Team Leader, Northern Region
Planning and Assessment

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.1 - ATTACHMENT 3

All communications to be addressed to:

Headquarters
4 Murray Rose Ave
Sydney Olympic Park NSW 2127

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



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

Your Ref: 10.2019.275.1
Our Ref: D19/2652
DA19080519878 AB

ATTENTION: Patricia Docherty

18 October 2019

Dear Ms Docherty

Integrated Development Application - 1//1231141 & 9//259415 - 45 Monet Drive Montecollum

I refer to your correspondence dated 29 July 2019 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. A restriction to the land use pursuant to section 88E of the 'Conveyancing Act 1919' shall be placed on proposed Lot B requiring a minimum 18 metre asset protection zones (APZ) around the identified building envelope, as depicted on the drawing titled Proposed Boundary Adjustment, prepared by Balance Systems Planning Consultants, numbered Plan-BA03, dated 20 August 2019. The required APZ shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Design and Construction

ID:119878/113848/5

Page 1 of 2

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

2. A restriction to the land use pursuant to section 88E of the 'Conveyancing Act 1919' shall be placed on proposed lot B , identifying the building envelope as depicted on the drawing titled Proposed Boundary Adjustment, prepared by Balance Systems Planning Consultants, numbered Plan-BA03, dated 20 August 2019. The restriction shall limit any dwellings on proposed lot B to that nominated building envelope.

General Advice – consent authority to note

Council needs to be satisfied that vegetation management to create a building envelope within proposed lot B, to achieve BAL 29 or less, can be undertaken in accordance with Planning for Bush Fire Protection.

Should you wish to discuss this matter please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely



Tim Carroll
Manager

For general information on bush fire protection please visit www.rfs.nsw.gov.au

10.2019.275.1
RECOMMENDED CONDITIONS OF CONSENT:

SCHEDULE 1 CONDITIONS OF CONSENT

Parameters of consent

1. Development is to be in accordance with approved plans

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
BA-02	Proposed Boundary Adjustment	Balanced Systems	20 August 2019
BA-03	Building Envelope	Balanced Systems	20 August 2019

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Integrated Approvals from other Authorities.

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being a Bush Fire Safety Authority, under Section 100B of the Rural Fires Act 1997, subject to the conditions listed under the "General Terms of Integrated Development Approval" in this consent.

General Terms of Integrated Development Approval – Rural Fires Act 1997

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

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Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions

shall apply:

2. A restriction to the land use pursuant to section 88E of the 'Conveyancing Act 1919' shall be placed on proposed lot B, identifying the building envelope as depicted on the drawing titled Proposed Boundary Adjustment, prepared by Balance Systems Planning Consultants, numbered Plan-BA03, dated 20 August 2019. The restriction shall limit any dwellings on proposed lot B to that nominated building envelope.

The following conditions are to be complied with prior to commencement of subdivision works

3. **Consent required for works within the road reserve**

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway (rural & residential areas without kerb & gutter)

A driveway for Lot B must be upgraded in accordance with Council's standard drawing R13 and R15, Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

4. **Geotechnical Report required – Soil Classification**

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of AS2870.

5. **Erosion and sediment control measures**

Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites* (A copy may be downloaded from Council's website). This may include stockpiled materials such as sand.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

The following conditions are to be complied with during subdivision works

6. **Construction noise**

Construction noise is to be limited as follows:

- a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

7. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- c) Monday to Friday, from 7 am to 6 pm.
- d) Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

8. Council Specification

All works to be constructed to at least the minimum requirements of the "[Northern Rivers Local Government Design and Construction Manual](#)".

9. Approved Plans to remain on site

A copy of the approved Construction Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

10. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

11. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

12. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

The following conditions are to be complied with prior to issue of a Subdivision Certificate**13. Subdivision Certificate application required**

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

NOTE: The application MUST be one complete concise package addressing ALL conditions of consent relevant to the subdivision with a clear explanation how each condition has been complied with, together with supplying ALL the relevant information /documents/ certificate and/or plans that is required by that condition. Failure to provide the abovementioned information in one package will likely result in the application being refused or rejected and returned to you.

14. Plan of Subdivision

The final plan of subdivision must be in accordance with the approved plan/s. A Deposited Plan Administration Sheet (original plus one (1) copy), two (2) copies of the plan of subdivision and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a subdivision certificate.

15. Road Widening

The location of the existing road formation and fences in relation to the property boundaries are to be shown on a survey plan to be submitted to Council. Any encroachments onto the property are to be dedicated as "Road Widening" at no cost to Council.

16. Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a) Clear of buildings and infrastructure,
- b) Clear of effluent disposal areas,
- c) Not concentrated so as to cause soil erosion,
- d) Not directly to a watercourse, and
- e) Not onto adjoining land.

17. Electricity Supply Certificate for Lot B

Written evidence from an electricity supply authority is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

18. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Subdivision in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- a) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

19. Geotechnical Report (Lot Classification) for Lot B

A certificate from a practicing Geotechnical Engineer must be provided in conjunction with a Lot Classification Report prepared in accordance with Australian Standard AS2870.1. Such certificate must certify that all vacant allotments have a building site of adequate size and shape on each lot that is not subject to slip or subsidence

20. Section 88B Instrument

A Section 88B Instrument and one (1) copy are to be submitted with the application for a strata certificate. The strata plan and accompanying Section 88B Instrument are to provide for:

a) Easement for Electricity

The creation of any necessary easements for electricity purposes as required by the

electricity supply authority.

b) **Easement for conservation**

A restriction on user must be applied at the subdivision stage to protect native vegetation on proposed Lot B. The restriction on user will apply to all land excluding the identified building envelope and an 18 metre asset protection zones (APZ), as depicted on the drawing titled Proposed Boundary Adjustment, prepared by Balanced Systems Planning Consultants, numbered Plan-BA03, dated 20 August 2019. The restriction on user must prohibit, except as otherwise permissible by law, all of the following within the area covered by the restriction on user:

- i) the destruction or removal of any local indigenous trees, shrubs, grasses or other vegetation, or the planting of any flora other than local indigenous flora;
- ii) any act or omission which may adversely affect any local indigenous flora or any indigenous fauna or their related habitats;
- iii) any act or omission which may result in the deterioration in the natural state or in the flow, supply, quantity or quality of any body of water or in the natural moisture regime of the area;
- iv) the creation or maintenance of any tracks through the area;
- v) the removal, introduction or disturbance of any soil, rock or other minerals;
- vi) any structures or dwellings;
- vii) No deposition or accumulation of rubbish or refuse, including garden refuse and weed propagules, nor the use of any of the area for storage of any substance or material.

The s88B Instrument must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the restriction on user.

21. **Compliance with bushfire conditions**

Documentary evidence from a suitably qualified professional is to be submitted to the PCA demonstrating that the bush fire conditions as issued under Section 100B of the Rural Fires Act 1997 have been complied with.

22. **Use of works on Proposed Lot A**

A development application must be submitted for the use of the buildings identified on the plan titled Plan of Part of Lot 1 DP 1231141 prepared by Ken Chelsworth Rg'd Surveyor 28 Oct 2019 Ref 1022 Huts included within additional information document E2019/87638.

23. **Completion of All Works**

All subdivision works required by this development consent, and associated Construction Certificate, are to be completed prior to issue of the subdivision certificate. A copy of the final completion letter/s, issued by the Principal Certifying Authority, and final plumbing certificate, issued by the water supply authority, for the relevant subdivision works must be submitted with the application for a subdivision certificate.

The following conditions are to be complied with at all times

24. **Native vegetation is not permitted to be cleared under Schedule 5A of the *Local Land Services Act 2013***

Clearing of native vegetation that would be authorised under Schedule 5A of the *Local Land Services Act 2013* (LLS Act) is not permitted to be carried out without development consent under part 4 of the *Environmental Planning and Assessment Act 1979*.

In accordance with the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 1.3(e) of that Act the purpose of this condition is "to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats".

Section 60Q(2) of the LLS Act provides that "Schedule 5A does not permit clearing or any other activity—

- (a) without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or
- (b) in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or another Part of this Act."

As this condition is imposed under section 4.17 of the EP&A Act, section 60Q of the LLS Act applies and the clearing of native vegetation under Schedule 5A of the LLS Act is not permitted.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 <http://www.legislation.nsw.gov.au/-/view/regulation/2000/557/part6/div9>
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building

Act 1989.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).



**Planning Proposal 26.2019.8.1
Amendment of Byron Local Environmental Plan 2014
Lot 33 DP 1223152
54 Parrot Tree Place, Bangalow**

Byron Shire Council

Version #1

Date: October 2019
E2019/77016

Planning Proposal – Parrot Tree Place E2019/77016

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
E2019/77016	October 2019	V1: Draft Planning Proposal – 20/02/20 Council Meeting

Planning Proposal – Parrot Tree Place E2019/77016

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Part 1 Objectives and Intended Outcomes

This Planning Proposal relates to land located at 54 Parrot Tree Place, on the southern edge of Bangalow (refer to Figure 1). The land is described as part Lot 33 in Deposited Plan 1223152, Parish of Byron and County of Rous.

The land is currently zoned both RU1 – Primary Production and R2 – Low Density Residential pursuant to the Byron Local Environmental Plan 2014 (LEP 2014).

This Planning Proposal seeks to rezone part of the subject land from RU1 – Primary Production to R2 – Low Density Residential as shown in Figure 1. The amendment is sought to rectify an anomaly where the R2 zone boundary was created in accordance with the 400 metre buffer to the sewer treatment plant located to the south west of the site. A recent survey has indicated that the original 400 metre buffer line was incorrect. The survey plan is contained in the appendix and Figure 2 demonstrates the relationship between the proposed additional residential zoning and the Bangalow sewer treatment plant. Council's engineers have indicated that there are no plans to extend the sewer treatment plant to the east across Maori Creek.

This Planning Proposal includes amendments to the property zoning, the minimum lot size and floor space ratio controls in keeping with the adjacent residential land. The changes relate to an area of approximately 690m² in size.

Indicative maps of the proposed changes are provided in Appendix 1. A biodiversity assessment and contamination assessment are attached to this Planning Proposal to support the rezoning.

This Planning Proposal has been prepared with reference to the Department of Planning and Environment's Guidelines "A Guide to Preparing Planning Proposals" and "A Guide to Preparing Local Environmental Plans".

Figure 1: Existing and proposed R2 low density zoning boundary

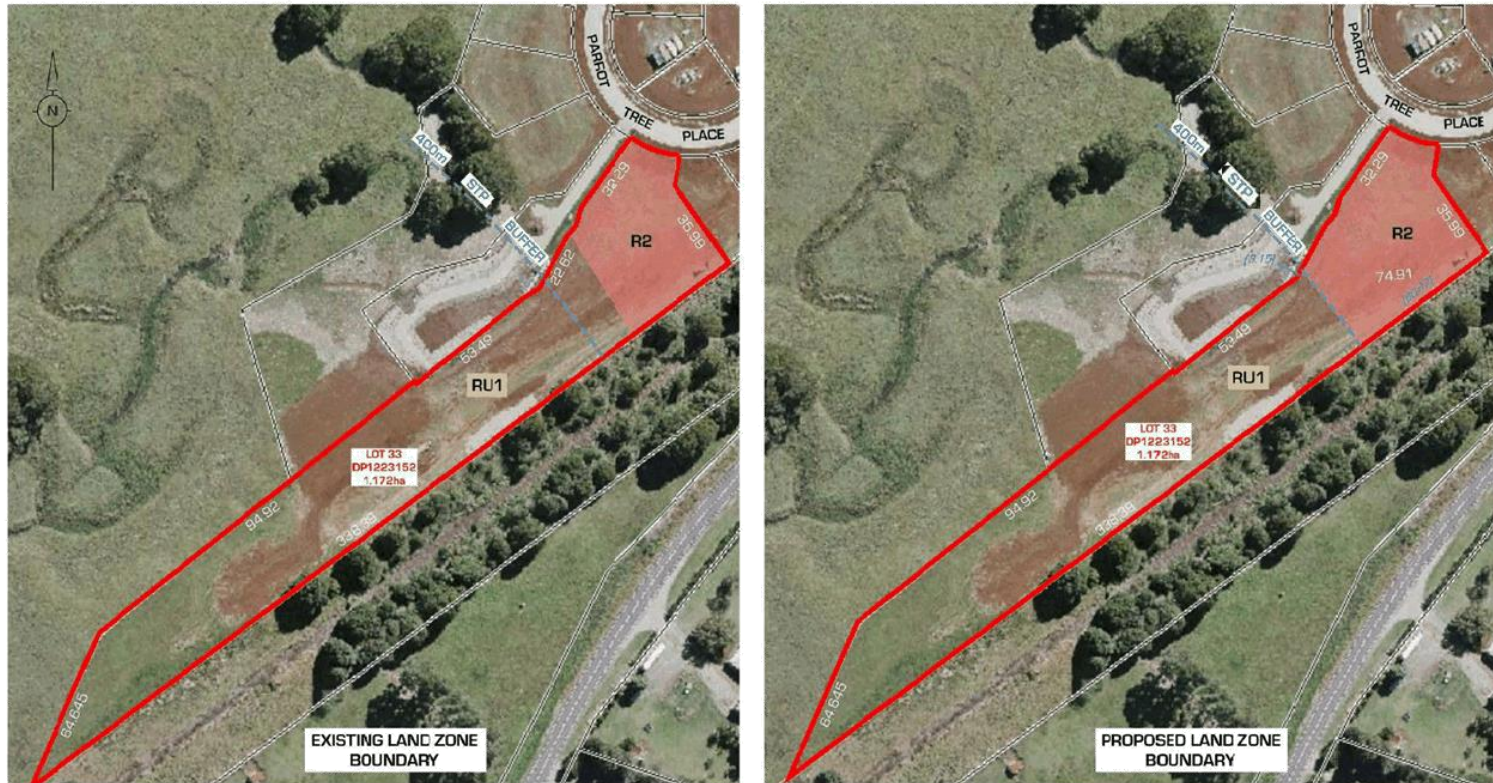
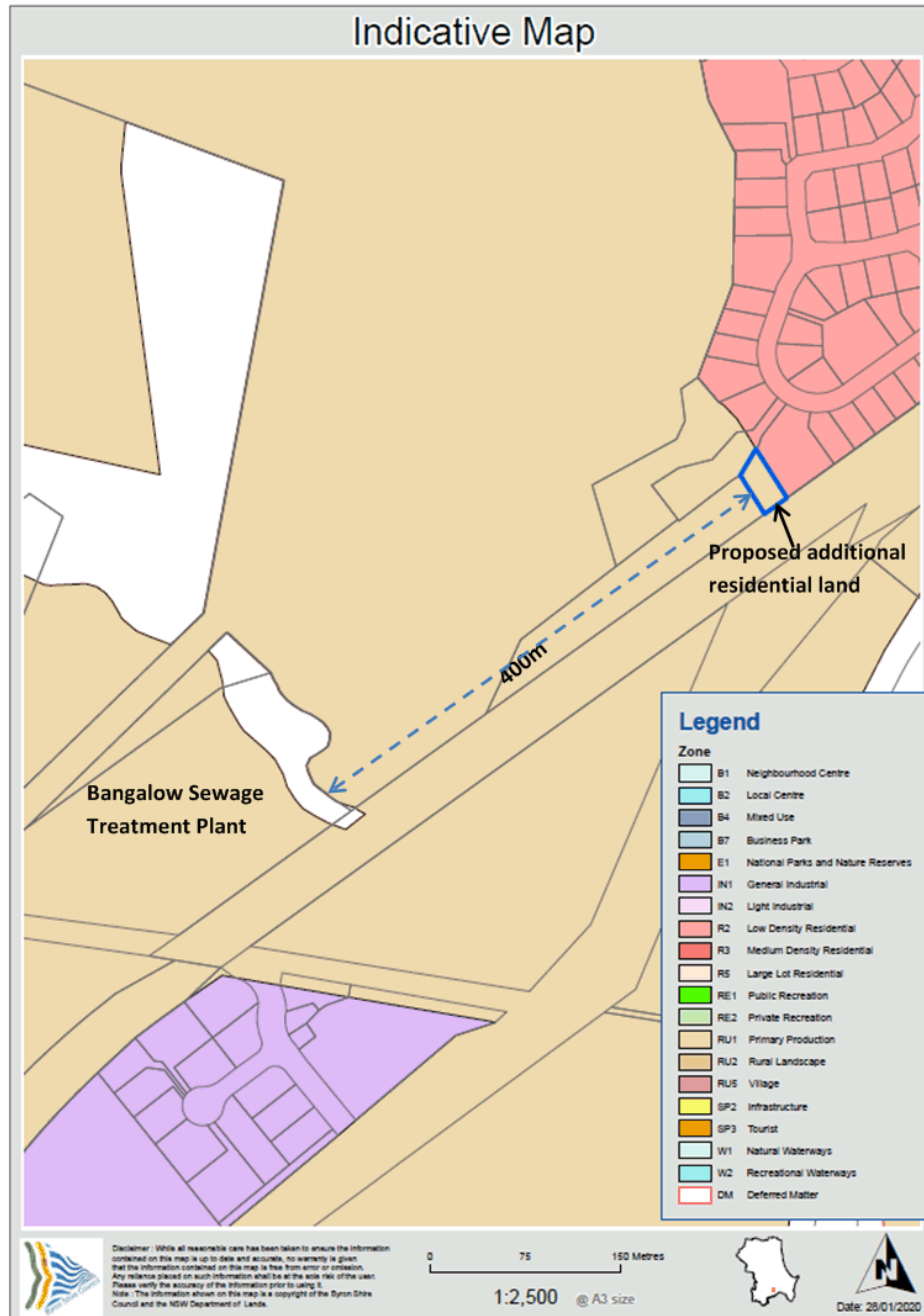


Figure 2: Indicative Map showing the distance between the Bangalow STP and the proposed additional residential land



Part 2 Explanation of provisions

Table 1 displays the proposed amendments as well as the rationale for the proposed change. The changes are relatively minor in nature and are proposed to reflect the surveyed 400 metre buffer from the sewer treatment plant located to the south west of the property. Indicative mapping of the proposed changes are contained in the Appendix.

Table 1: Proposed LEP amendments and supporting rationale.

Item	Amendment Proposed	Rationale
1	Amendment of the Byron LEP 2014 Zone Map – Sheet LZN_003CB to amend the zoning of part of Lot 33 DP1223152 as illustrated in Figure 4 in the Appendix.	To amend the zoning of part of Lot 33 DP 1223152 from RU1 to R2 to reflect the actual position of the 400-metre sewer treatment plant buffer to residential development.
2	Amendment of the Byron LEP 2014 Lot Size Map – Sheet LSZ_003CB to amend the minimum lot size of part of Lot 33 DP1223152 as illustrated in Figure 4 in the Appendix.	To amend the minimum lot size of part of Lot 33 DP 1223152 from 40 hectares to 300m2 to reflect the actual position of the 400-metre sewer treatment plant buffer to residential development and the adjoining residential minimum lot size.
3	Amendment of the Byron LEP 2014 Floor Space Ratio Map – Sheet FSR_003CB to amend the Floor Space Ratio of part of Lot 33 DP1223152 as illustrated in Figure 4 in the Appendix.	To extend the maximum floor space ratio map requiring a maximum FSR of 0.5:1 of part of Lot 33 DP 1223152 to reflect the actual position of the 400-metre sewer treatment plant buffer to residential development and the adjoining residential FSR.

Part 3 Justification

Section A Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal is not the result of any strategic study undertaken by Council, it has been initiated by the applicant. It is supported by a detail survey demonstrating that the 400 metre buffer line to the sewer treatment plant to the south west was originally mapped in the incorrect location. This Planning Proposal seeks to rectify this error and will provide additional residential land within an existing residential subdivision.

Q2. Is the planning proposal the best means of achieving the objective or intended outcomes, or is there a better way?

The planning proposal is the best means to achieve the objective of permitting residential development on part of the land concerned.

Section B Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (in this case the North Coast Regional Plan 2036)?

Part of the subject site is located within the Urban Growth Area boundary under the North Coast Regional Plan 2036 (NCRP). The part of the land proposed to be rezoned is located immediately adjacent to the Urban Growth Area. The land is not identified as being located within the 'coastal strip'.

The Planning Proposal is consistent with the following Regional Priorities identified for the Byron Shire:

- Identify additional urban and employment investigation areas to secure future housing and employment land supply.
- Support a strong and diversified economy based on Byron Shire's unique character, landscapes and important farmland.

The Regional Plan has a number of Directions of relevance to the current Planning Proposal:

Direction 1: Deliver environmentally sustainable growth

As discussed above, the land proposed to be rezoned is not located within the Town and Village Growth Boundary of Byron Council (it is directly adjacent to it). This Direction provides guidelines to vary urban growth areas as new information becomes available or to fix anomalies. The proposal is considered to fix an anomaly as the location of the buffer to the sewer treatment plant was incorrectly identified due to GIS irregularities. A survey has been undertaken to locate the boundary of the sewer treatment plant and rectify the 400 metre buffer.

Any variation must be in accordance with the Urban Growth Area Variation Principles provided within NCRP 2036. Compliance with these principles is provided below in Table 2.

Direction 3: Manage Natural Hazards and Climate Change

The subject land is not mapped as being flood prone or bushfire prone on Council mapping.

Direction 11: Protect and enhance productive agricultural lands.

The subject land is mapped as being Regionally Significant Farmland under the Northern Rivers Farmland Protection Project. This direction recognises that agricultural production may not be suitable on some small pockets of mapped important farmland. An assessment against Appendix B: Important Farmland Interim Variation Criteria is provided below in Table 3.

Direction 22: Deliver greater housing supply

The proposal seeks to increase the housing supply of Bangalow by enabling the site to be rezoned for residential purposes. As identified in Figure 10 of the NCRP 2036, the Byron LGA will require a minimum of 3,150 additional houses by 2036. The proposal will assist in the attainment of this goal.

The NCRP contains principles (Appendix A of NCRP) that should be addressed for land that is outside that Urban Growth Area. The following table addresses these principles in relation to the Planning Proposal.

Table 2: Urban growth area variation principles

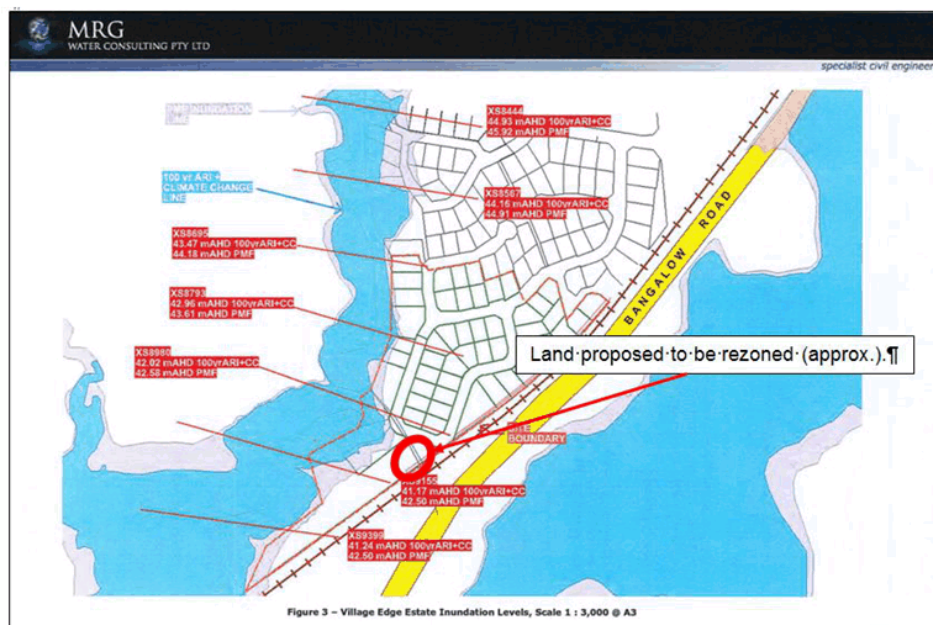
Urban Growth Area Variation Principles	
<p>Policy The variation needs to be consistent with the objectives and outcomes in the North Coast Regional Plan 2036 and any relevant Section 9.1 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy</p>	<p>Compliance with the relevant provisions of the NCRP 2036, S9.1 Directions and SEPPs is provided within the Planning Proposal report. Variations, where necessary, have been justified and are summarised as follows:</p> <ul style="list-style-type: none"> • The proposal will provide for greater housing supply and increased housing diversity within the Byron Shire. It is a priority of the NCRP 2036 to deliver new housing and enhance the variety of housing options in the Shire. • Direction 1 of the NCRP 2036 provides guidelines to vary urban growth areas as new information becomes available or to fix anomalies. In this regard, the new information available is in the form of a survey to correctly place the 400 metre sewer treatment plant buffer. • The variation sought as per Direction 1 is warranted given the proximity of the site to existing urban infrastructure and the relative, ease of servicing, the site for residential purposes. See Infrastructure for more details. • The rural use of the land has been abandoned for a significant period of time and residential use of the land is considered its best and most efficient use. • The subject site provides for additional land to increase the availability of residential land within Bangalow to meet the immediate projected housing targets. It also provides for an optimal use of infrastructure that currently services

	the land.
<p>Infrastructure The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government. The variation should only be permitted if adequate and cost effective infrastructure can be provided to match the expected population.</p>	<ul style="list-style-type: none"> • The land is adjacent to existing residential land and in close proximity to available services. • The land is well suited to residential development given the close proximity to these existing services. In this regard, the land can be easily serviced by water, sewer, telecommunications and electricity demonstrating consistency with S9.1 Direction 3.1 Housing, Infrastructure and Urban Development. Council engineers have indicated that the additional residential area will not constrain the water and sewage services for this area. • Given the above availability of services, the land is able to be readily serviced without the need for cost prohibitive infrastructure extensions.
<p>Environmental and farmland protection The variation should avoid areas:</p> <ul style="list-style-type: none"> • of high environmental or heritage value; and • mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review. 	<ul style="list-style-type: none"> • The site has been historically cleared and modified and comprises a grassy paddock dominated by Kikuyu with Couch and common agricultural weeds. The Biodiversity Assessment provided in Attachment 1 concludes that “the proposed rezoning will not impact on any significant biodiversity matters due to the cleared and modified nature of the site and lack of native vegetation and fauna habitat.” • Whilst the land is mapped as Regionally Significant Farmland, the land has not supported agricultural activities for a significant period of time due to the small size and irregular shape of the land. Additionally, the land has historically been attached to an allotment identified for residential development. As such the proposal will not occupy productive agricultural land. • The proposal’s consistency with the interim variation criteria prior to finalising the farmland mapping review is provided below in Table 3.
<p>Land use conflict The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.</p>	<p>The land is located immediately adjacent to an existing urban environment being residential allotments, roads and stormwater infrastructure. Grazing land is located approximately 100 metres to the west of the land proposed to be rezoned. As indicated</p>

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	<p>within the detail survey provided within this Planning Proposal, the cadastral boundary to the sewer treatment plant is located 400 metres from the proposed land to be rezoned to R2.</p> <p>As a result, no land use conflicts are considered likely.</p>
<p>Avoiding risk The variation must avoid physically constrained land identified as:</p> <ul style="list-style-type: none"> • flood prone; • bushfire prone; • highly erodible; • having a severe slope; and • having acid sulfate soils. 	<p>The subject land is not mapped as being bushfire prone or having the potential for acid sulfate soils.</p> <p>No evidence of erosion events or land slip are located on the land. The land does not have a severe slope.</p> <p>In regards to flood prone lands, the original development application that approved the adjoining residential subdivision was subject to a flood study. As indicated in Figure 3 below, the location of the land proposed to be rezoned is not mapped as being Flood Prone.</p>
<p>Heritage The variation must protect and manage Aboriginal and non Aboriginal heritage.</p>	<p>The site does not contain items of Local Environmental Heritage pursuant to the Byron LEP 2014 mapping.</p> <p>An AHIMS search was undertaken over the site which did not identify any registered Aboriginal sites on the land or within proximity to it.</p>
<p>Coastal area Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.</p>	<p>The land is not located within the coastal strip.</p>

Figure 3: Flood Mapping (source: Detailed Flood Study Report – MRG Water Consulting PTY LTD)



Given the land is mapped as being Regionally Significant Farmland, an assessment against Appendix B: Important Farmland Interim Variation Criteria from the North Coast Regional Plan 2036 is provided below.

Table 3: Important farmland interim variation criteria.

Important Farmland Interim Variation Criteria	
Land may be suitable for uses other than farmland if:	
Agricultural The land is isolated from other important farmland and is not capable of supporting sustainable agricultural production.	Given the size of the land and its irregular shape, agricultural activities are limited. Farmland in the general locality is typically utilised for low input cattle grazing. The property consists of 1.172 hectares and is isolated from adjoining farmland, both physically and by ownership, therefore, the land's capacity to be efficiently farmed is diminished. This small addition of residential land will be the only encroachment in this area as the remaining land is constrained by the 400meter STP buffer.
Land use conflict The land use does not increase the likelihood of conflict and does not impact on	The land is located immediately adjacent to an existing urban environment being residential allotments, roads and stormwater

current or future agricultural activities in the locality.	<p>infrastructure. Grazing land is located approximately 100 metres to the west of the land proposed to be rezoned. As indicated within the detail survey provided within this Planning Proposal, the cadastral boundary to the sewer treatment plant is located 400 metres from the proposed land to be rezoned to R2.</p> <p>As a result, no land use conflicts are considered likely.</p>
<p>Infrastructure The delivery of infrastructure (utilities, transport, open space, communications and stormwater required to service the land is physically and economically feasible at no cost to State and Local Government.</p>	As discussed above, the land is located within proximity to all existing services and the land can be easily serviced by water, sewer, telecommunications and electricity.
<p>Environment and heritage The proposed land uses do not have an adverse impact on areas of high environmental value, Aboriginal or historic heritage significance.</p>	<p>The site does not contain items of Local Environmental Heritage pursuant to the Byron LEP 2014 mapping.</p> <p>An AHIMS search was undertaken over the site which did not identify any registered Aboriginal sites on the land or within proximity to it.</p>
<p>Avoiding risk Risks associated with physically constrained land are identified and avoided, including:</p> <ul style="list-style-type: none"> • flood prone; • bushfire-prone; • highly erodible; • severe slope; and • acid sulfate soils. 	<p>The subject land is not mapped as being bushfire prone or having the potential for acid sulfate soils.</p> <p>No evidence of erosion events or land slip are located on the land. The land does not have a severe slope.</p> <p>In regards to flood prone lands, the original development application that approved the adjoining residential subdivision was subject to a flood study. As indicated in Figure 3 above, the location of the land proposed to be rezoned is not mapped as being Flood Prone.</p>

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Council has adopted the Community Strategic Plan 2028 (CSP). The CSP is underpinned by four key visions. These visions are to be achieved by five key community objectives. This Planning Proposal is in accordance with these community objectives as per below:

Table 4: Consistency with the Community Strategic Plan

Community Objective	Response
We have infrastructure, transport and	As discussed previously throughout this Planning

services that meet our expectations	Proposal, the land proposed to be rezoned is capable of being serviced via the existing utility service connections within proximity to the site. The minor nature of the proposal i.e. an additional 690m ² of residential land, will not have a significant impact upon the transport network in the locality.
We cultivate and celebrate our diverse cultures, lifestyle and sense of community	The proposal will allow for additional residential development which will assist in maintaining the sense of the Bangalow community via the provision of additional housing choices. The land is not identified as containing Aboriginal sites.
We protect and enhance our natural environment	As discussed throughout this Planning Proposal and as provided in the Biodiversity Assessment in Attachment 1, the proposal will not impact on any significant biodiversity matters as the land has been extensively cleared.
We manage growth and change responsibly	Whilst the proposal will create additional residential land, the minor nature of the proposal is considered to fit in with the current lifestyle of Bangalow and is congruent with the existing local aesthetics of Bangalow.
We have community led decision making which is open and inclusive	Council will commence community consultation in accordance with the Gateway determination. For the purposes of public notification, the planning proposal is not considered to be low impact as outlined in the NSW DPE's 'A Guide to Preparing Local Environmental Plans' because it is inconsistent with some Section 9.1 Directions. A 28-day public exhibition period is recommended. Notification of the exhibited planning proposal will include: <ul style="list-style-type: none"> • a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the planning proposal; and • the web sites of Byron Shire Council and the NSW DPIE. The supporting studies and information supplied with the planning proposal submission will also be included in the exhibition material.

The Planning Proposal is broadly consistent with the Bangalow Village Plan and the draft Residential Strategy which encourage housing diversity and utilising existing land to deliver extra housing in the Shire. As this site is relatively small scale and integrates with an existing residential area it is considered to be consistent with the direction of future housing within Byron Shire.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

Majority of State Environmental Planning Policies (SEPPs) are not applicable to this planning proposal. The State Environmental Planning Policies relevant to this planning proposal are as follows:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 44 Koala Habitat Protection	As discussed within the Biodiversity Assessment provided in Attachment 1, the site does not contain Koala Habitat.
SEPP 55 Remediation of Land	A Preliminary Contaminated Land Assessment was prepared over the site for the previous residential subdivision (refer Attachment 2). This assessment included soil sampling in the area proposed to be rezoned and concluded <i>"the soils on the subject site do not represent a risk to human health or the environment from soil contamination."</i>

Q6. Is the planning proposal consistent with the applicable Ministerial Directions (s.9.1 directions)?

Consistency with the Local Planning Directions is assessed in the following table:

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary)	This Planning Proposal does not relate to business or industrial zones.	N/A
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this direction is to protect the agricultural production value of rural land. Under this direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	The land is mapped as being Regionally Significant Farmland. However, as discussed earlier in this Planning Proposal, the land has not been utilised for agricultural production for a significant period of time due to the size and irregular shape of the land. Furthermore, compliance with Appendix B of the NCRP 2036 relating to farmland variation criteria is provided within this Planning Proposal. The planning proposal will remove a rural zone and replace it with a residential zone. This replacement is minor and considered to fix a mapping anomaly being the incorrect location of the sewer treatment plant buffer. The inconsistency with this direction is justified based on the minor significance of the amendment.	Justifiably Inconsistent
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals,	This planning proposal will not prohibit or restrict exploration or mining or the extraction of other material.	N/A

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.		
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate", or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses.	Priority Oyster Aquaculture Areas (POAA) exist in the lower parts of the Brunswick River. However, there is minimal likelihood that the planning proposal will have adverse impacts on them as this site is well removed from the Brunswick River catchment.	Consistent
1.5 Rural Lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land; (b) facilitate the orderly and economic development of rural lands for rural and related purposes. Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a	A Planning Proposal can be inconsistent with this Direction if it is considered to be of minor significance. As discussed throughout this report, the proposal relates to the rezoning of approximately 690m2 of rural zoned land. This land is not currently utilised for agricultural production and given its size and irregular shape is not considered capable of supporting purposeful agricultural production. The inconsistency with this direction is justified based on the minor significance of the amendment.	Justifiably Inconsistent

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>rural or environment protection zone.</p> <p>A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</p>		
2. Environment and Heritage			
2.1 Environment Protection Zones	<p>The objective of this direction is to protect and conserve environmentally sensitive areas. A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".</p>	This planning proposal does not alter or remove any environment protection zone.	Consistent
2.2 Coastal Protection Zones	<p>This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <p>(a) the objects of the Coastal Management</p>	The subject land is not located within the coastal zone.	N/A

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>Act 2016 and the objectives of the relevant coastal management areas;</p> <p>(b) the NSW Coastal Management Manual and associated Toolkit;</p> <p>(c) NSW Coastal Design Guidelines 2003; and</p> <p>(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</p> <p>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</p> <p>(a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or</p> <p>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:</p> <p>(i) by or on behalf of the planning proposal authority and the planning proposal authority, or</p> <p>(ii) by or on behalf of a public authority and provided to the planning proposal authority.</p> <p>A planning proposal for a Local Environmental</p>		

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>Plan may propose to amend the following maps, including increasing or decreasing the land within these maps, under the State Environmental Planning Policy (Coastal Management) 2018:</p> <ul style="list-style-type: none"> (a) Coastal wetlands and littoral rainforests area map; (b) Coastal vulnerability area map; (c) Coastal environment area map; and (d) Coastal use area map <p>Such a planning proposal must be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister, or by a Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.</p>		
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared 	<p>The site does not contain items of Local Environmental Heritage pursuant to the Byron LEP 2014 mapping.</p> <p>An AHIMS search was undertaken over the site which did not identify any registered Aboriginal sites on the land or within proximity to it.</p>	Consistent

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.		
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):</p> <ul style="list-style-type: none"> (a) where the land is within an environmental protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration: <ul style="list-style-type: none"> (i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and (ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985 	This Planning Proposal does not enable the land to be developed for the purpose of a recreation vehicle area.	N/A

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	This direction applies when a relevant planning authority prepares a planning proposal: <ul style="list-style-type: none"> (a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone; (b) that introduces or alters an overlay and associated clause. 	This planning proposal does not introduce an environmental zone or overlay. No Deferred Matter zones are located on the land.	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p>A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is 	<p>The Planning Proposal involves the application of a zoning framework consistent with residential development within the immediate locality. The R2 Low Density Residential zone provides for a variety of residential and other compatible land uses including dwellings, dual occupancies and multi dwelling housing.</p> <p>The subject site is adjacent to existing residential development and is easily serviced. As discussed within this report, the proposal will not have a significant impact on the natural environment or resource lands.</p>	Consistent

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land		
3.2 Caravan Parks and Manufactured Home Estates	<p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of 	This planning proposal will not alter the permissibility of caravan parks or manufactured home estates on the subject land.	N/A

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	This planning proposal will not alter the permissibility of home occupations on the subject land.	Consistent
3.4 Integrating Land Use and Transport	This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	The subject site is located within an existing residential area and has frontage to the existing road network. The surrounding road network is considered capable of accommodating the future residential development of the land.	Consistent
3.5 Development Near Regulated Airports and Defence Airfields	This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	The land is not located near a regulated airport.	N/A
3.6 Shooting Ranges	This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range. A planning proposal must not seek to rezone land adjacent to	No shooting ranges are located within the vicinity of the land.	N/A

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2 - ATTACHMENT 1

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	and/ or adjoining an existing shooting range that has the effect of: (a) permitting more intensive land uses than those which are permitted under the existing zone; or (b) permitting land uses that are incompatible with the noise emitted by the existing shooting range.		
4. Hazard and Risk			
4.1 Acid Sulfate Soils	This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act.	The land is not mapped as containing acid sulfate soils.	N/A
4.2 Mine Subsidence and Unstable Land	This direction applies to land that: (a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or	This planning proposal does not impact on any mine subsidence area.	Consistent

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(b) has been identified as unstable land. This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment 		
4.3 Flood Prone Land	<p>This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas). A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government 	As discussed above, the location of the land proposed to be rezoned is not mapped as being Flood Prone.	Consistent

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>spending on flood mitigation measures, infrastructure or services, or</p> <p>(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</p> <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>		
4.4 Planning for Bushfire Protection	This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW	The land is not mapped as containing bushfire prone land.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made, A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to Planning for Bushfire Protection 2006, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, 		

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		
5. Regional Planning			
5.1 Implementation of Regional Strategies	<p>This direction applies to land to which the following regional strategies apply:</p> <p>(a) South Coast Regional Strategy (excluding land in the Shoalhaven LGA)</p> <p>(b) Sydney–Canberra Corridor Regional Strategy</p>	N/A	N/A
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	N/A	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North	<p>This applies to Byron Shire Council except within areas contained within the “urban growth area” mapped in the North Coast Regional Plan 2036. A planning proposal must not:</p>	A Planning Proposal can be inconsistent with this Direction if it is consistent with the North Coast Regional Plan. The Planning Proposals consistency with the NCREP is discussed above	Justifiably Inconsistent

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13.2 - ATTACHMENT 1

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
Coast	<ul style="list-style-type: none"> (a) rezone land identified as "State Significant Farmland" for urban or rural residential purposes. (b) rezone land identified as "Regionally Significant Farmland" for urban or rural residential purposes. (c) rezone land identified as "significant non-contiguous farmland" for urban or rural residential purposes. 	under Question 3.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	<p>This Direction applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.</p> <p>A planning proposal that applies to land located on "within town" segments of the Pacific Highway must provide that:</p> <ul style="list-style-type: none"> (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway; (b) development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, "within town" means areas which, prior to the draft local environmental plan, have an urban zone (eg: "village", "residential", "tourist", "commercial", "industrial", etc) and where the Pacific Highway speed limit is less than 80km/hour. <p>A planning proposal that applies to land located on "out-of-town" segments of the Pacific Highway</p>	The land is not located within proximity to the Pacific Highway.	N/A

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>must provide that:</p> <ul style="list-style-type: none"> (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction; (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (eg: "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80km/hour or greater. 		
5.5 – 5.8 Revoked	-	-	-
5.9 North West Rail Link Corridor Strategy	Not Applicable to Byron Shire	N/A	N/A
5.10 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	The consistency of this Planning Proposal with the North Coast Regional Plan is addressed in Section B above.	Consistent
6. Local Plan Making			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a 	No referral or concurrence requirements are proposed within the Planning Proposal. It does not identify development as designated development.	N/A

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S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and <p>(c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 		

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2 - ATTACHMENT 1

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	N/A
6.3 Site Specific Provisions	<p>This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	<p>The planning proposal will not facilitate any particular development to be carried out. The planning proposal does not refer to drawings that show details of a development proposal</p>	N/A

Section C Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The Planning Proposal is over land that has been extensively cleared and modified and comprises a grassy paddock dominated by Kikuyu and common agricultural weeds. No significant trees or shrubs occur within the land. A Biodiversity Assessment has been prepared by GeoLink and is Attached to this Planning Proposal. This Assessment concluded that *"the proposed rezoning will not impact on any significant biodiversity matters due to the cleared and modified nature of the site and lack of native vegetation and fauna habitat."*

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed.

No. The minor nature of the proposal coupled with the limited environmental values and constraints presented by the land will result in negligible environmental effects.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The rezoning of the land for residential purposes will have positive social and economic effects, and in particular the development of the land for housing will assist in meeting regional dwelling targets identified within the NCRP 2036. The community benefit associated with the proposed development will be found in the provision of additional housing to service the future population needs of the Byron LGA.

The additional following social and economic benefits will be provided:

- **Creation of local employment opportunities through new jobs and multiplier effect on the local economy** – The construction of any future dwelling houses will provide an increase in local employment opportunities that will have flow-through effects through tradespeople to suppliers and capacity for increased retail expenditure.
- **Increase in housing supply and choice** – The rezoning will enable the construction of additional dwellings which may be either owner occupied or leased thereby contributing to the housing stock within the existing Bangalow urban catchment area.
- **Demand for community services in the locality** – It is envisaged that the future residential occupation of any lots created will increase the demand for services in the locality by virtue of the resultant increase in population. The subject site is accessible and within good proximity to existing services within the Bangalow township which contains a diverse range of community facilities together with retail, administrative, health, education, transport, open space and sporting services.

Section D State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The Planning Proposal involves a relatively modest 'greenfield' type development adjacent to an existing residential precinct. No significant impacts are expected with respect to State and Commonwealth infrastructure services.

With respect to local service infrastructure subject land is located immediately adjoining an urban environment and is in close proximity to reticulated water, sewer, telecommunications, electricity and stormwater drainage networks. Following rezoning, any future development will need to secure connection to the required infrastructure services. In this regard, we note that reticulated water, sewer, drainage, electricity and telecommunication infrastructure are all available in close proximity to the subject site.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

State and Commonwealth public authorities will be consulted after Gateway Determination.

Part 4 Mapping

Amendments will be required to the following Byron LEP 2014 map sheets:

- Land Zoning Map – Sheet LZN_003CB;
- Lot Size Map – Sheet LSZ_003CB; and
- Floor Space Ratio Map – Sheet FSR_003CB.

Draft LEP Mapping is provided in the appendix.

Part 5 Community consultation

Council will commence community consultation in accordance with the Gateway Determination. For the purposes of public notification, the planning proposal is not considered to be low impact as outlined in the NSW DPE's A guide to preparing local environmental plans because it is inconsistent with some Section 9.1 Directions. A 28-day public exhibition period is recommended.

Notification of the exhibited planning proposal will include:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the planning proposal; and
- the web sites of Byron Shire Council and the NSW DPIE.

The supporting studies and information supplied with the planning proposal submission will also be included in the exhibition material.

Part 6 Project timeline

The proposed timeline for the completion of the Planning Proposal is as follows:

Plan making step	Estimated completion
Gateway Determination	March 2020
Agency Consultation	April 2020
Public Exhibition Period	May 2020
Submissions Assessment	June 2020
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	August 2020
Council to make the LEP amendment (delegated authority)	September 2020
LEP amendment notification	October 2020

Conclusion

This Planning Proposal seeks to amend the Byron LEP 2014 to rezone approximately 690m² of land to R2 – Low Density Residential. It will also amend the minimum lot size map and floor space ratio map applicable to the subject land.

The proposal is sought to rectify the location of the 400 metre buffer from the sewer treatment plant to the south west of the site. In this regard, a survey has been undertaken to correctly position the buffer which has resulted in additional land suitable for residential development.

The land has availability to all necessary services and the extension to these services is not considered cost prohibitive.

The proposal is minor in nature and will not create an unreasonable or uneconomic demand on public services and infrastructure.

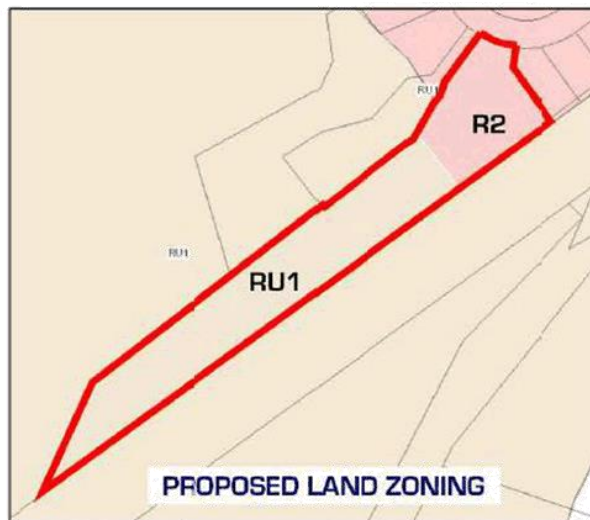
This Planning Proposal provides sufficient information to support the proposal and forward it to the Department of Planning, Infrastructure and Environment for a Gateway Determination.

Appendix

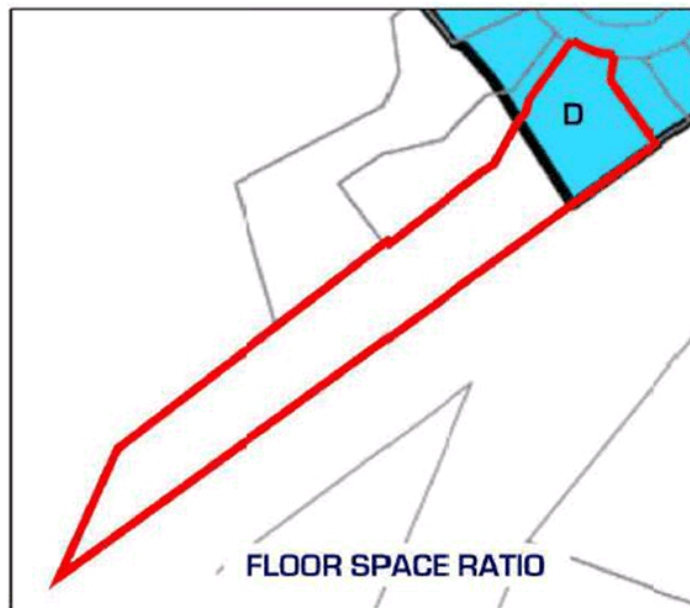
Figure 4: Draft LEP mapping of proposed changes



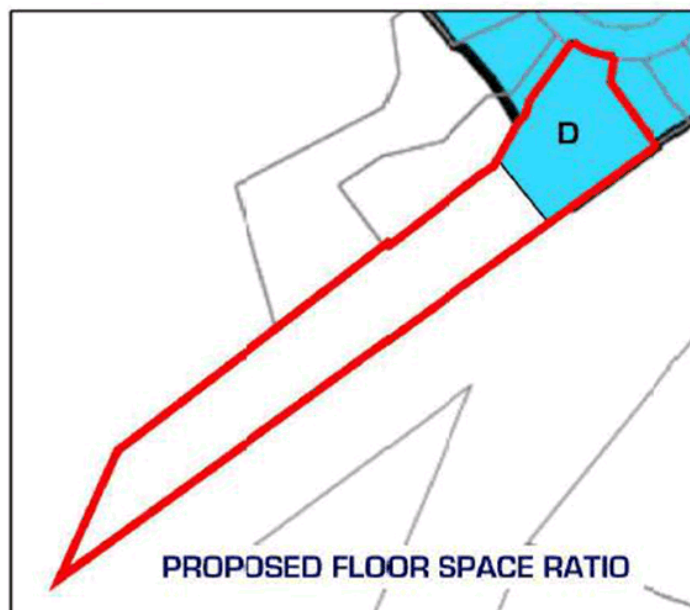
RU1 PRIMARY PRODUCTION



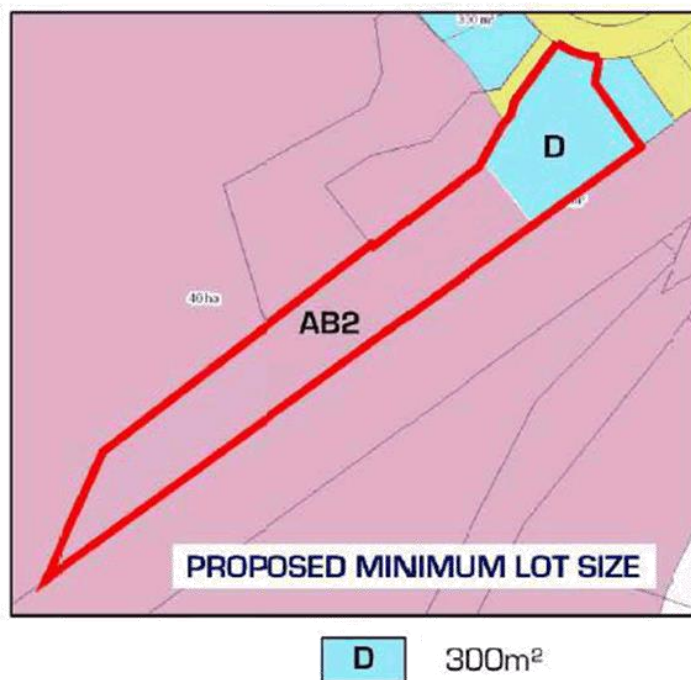
RU1 PRIMARY PRODUCTION **RU2** LOW DENSITY RESIDENTIAL



D 0.5



D 0.5

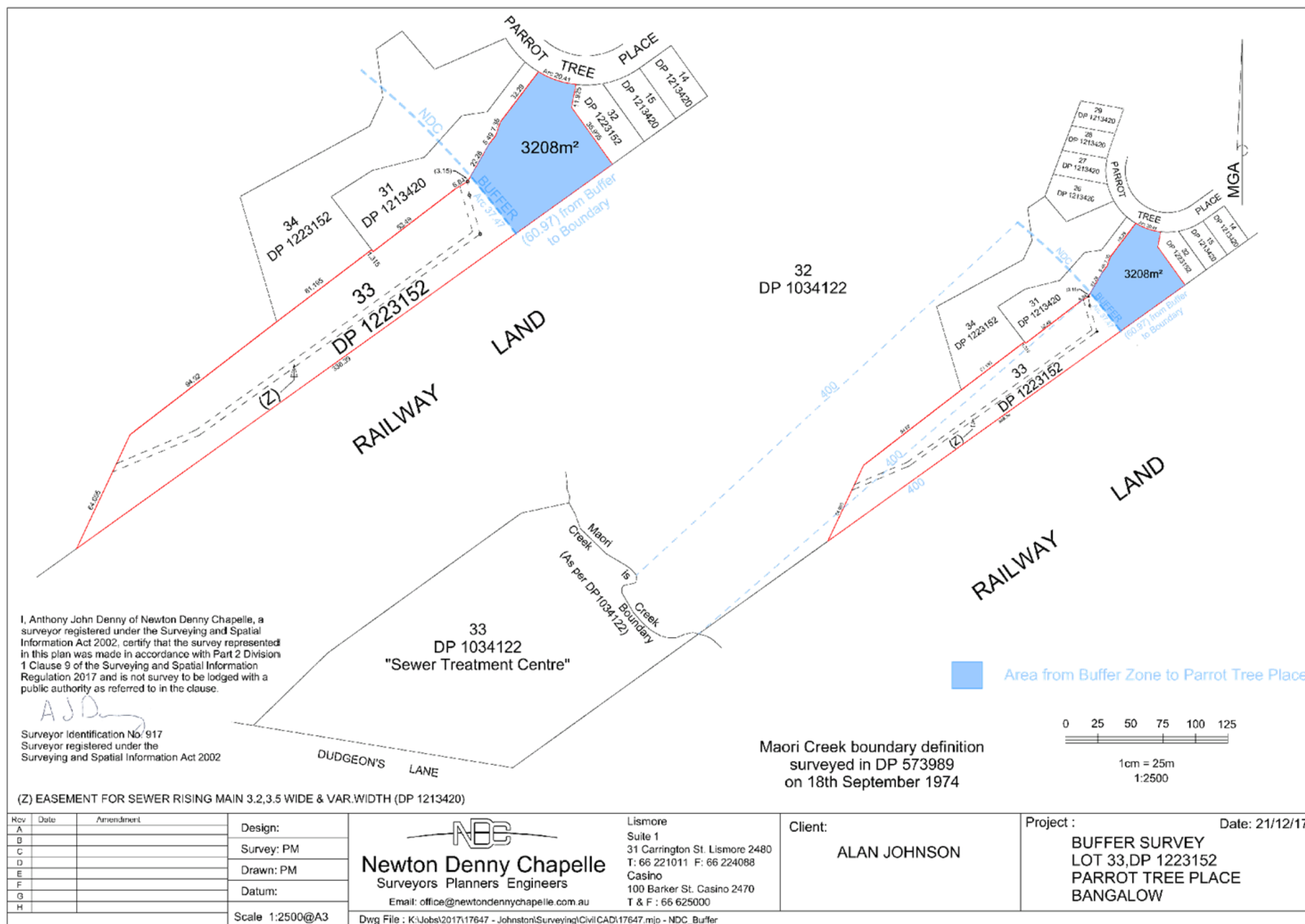


Survey Plan

Attached

Biodiversity and Contaminated Land Assessment

Attached





ATTACHMENT 1

Biodiversity Assessment



ABN 79 896 839 729
ACN 101 084 557

Return address:
PO Box 1446
COFFS HARBOUR
NSW 2450

LENNOX HEAD
T 02 6687 7666
F 02 6687 7782

COFFS HARBOUR
T 02 6651 7666

ARMIDALE
T 02 6772 0454

LISMORE
T 02 6621 6677

www.geolink.net.au

29 July 2019
Ref No.: 3231-1042

Fiery Developments
c/- Newton Denny Chappelle
PO Box 1138
LISMORE NSW 2480

Attention: Adrian Zakaras

Dear Adrian

Lot 33 DP1223152 Parrot Tree Place Bangalow – Biodiversity Assessment

This letter presents the results of a Biodiversity Assessment undertaken to assess potential impacts to biodiversity values from the proposed adjustment to the zoning of Lot 33 DP1223152 Parrot Tree Place Bangalow.

The assessment focused on investigating the extent of native vegetation or habitat for threatened species or communities listed in the *Biodiversity Conservation Act 2016* (BC Act) or *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The site does not contain land mapped as being of biodiversity value in the *Biodiversity Values Map and Threshold Tool*.

Vegetation

The site has been historically cleared and modified and comprises a grassy paddock dominated by Kikuyu (*Cenchrus clandestinum*), with Couch (*Cynodon dactylon*) and common agricultural weeds (eg. Fireweed *Senecio madagascariensis*, Clover *Trifolium repens*, Flatweed *Hypochaeris radicata*). No significant trees or shrubs occur. Along the eastern portion of the southern boundary with the adjacent railway corridor a narrow landscape planting occurs over a distance of approximately 70 metres. Brown Kurrajong (*Commersonia bartramia*) and Lilly Pillies (*Syzygium* spp.) dominate the planting, with infrequent other species including Silky Oak (*Grevillia robusta*), Cudgerie (*Flindersia schottiana*) and Cheese Tree (*Glochidion ferdinandi*).

Threatened flora

No threatened flora species occur at the site.

Threatened communities

Vegetation at the site is not characteristic of any Threatened Ecological Communities listed in the BC Act or EPBC Act.

Threatened fauna

No habitat for threatened fauna occurs. The lack of vegetation/habitat at the site precludes foraging or roosting/breeding opportunities for threatened fauna. No preferred Koala food trees occur.

Fauna habitat features

No significant fauna features (hollow-bearing trees, active nests or dreys) occur.

quality solutions sustainable future

Impacts of the proposal

The proposed rezoning will not impact on any significant biodiversity matters due to the cleared and modified nature of the site and lack of native vegetation and fauna habitat.

Statutory matters

The following environmental instruments were reviewed with regard to the proposal:

- State Environmental Planning Policy (SEPP) 44 - Koala Habitat Protection
- *Biodiversity Conservation Act 2016*
- *Environment Protection and Biodiversity Conservation Act 1999.*

SEPP 44

The site does not support any single schedule 2 feed trees listed in the Policy. On this basis the site does not support potential Koala habitat and the Policy does not apply

Biodiversity Conservation Act 2016

The site does not provide habitat for any threatened species or communities. Tests of significance ('five-part tests') under Section 7.3 of the BC Act are therefore not required.

Environment Protection and Biodiversity Conservation Act 1999

The proposal would be unlikely to impact on any Matters of Environmental Significance with regard to threatened species and communities or their habitats.

I trust this information is sufficient. Please contact me if you require further information.

Yours sincerely

GeoLINK



Ian Colvin
Senior Ecologist



ATTACHMENT 2

Contamination Assessment

Part Lot 77 DP 1031773, Parrot Tree Place, Bangalow
SEPP55 Preliminary Investigation

report 070016

1 Introduction

Black EARTH Environmental has been requested by PICAMORE Pty Ltd through GeoLINK to undertake a preliminary SEPP55 investigation for land described in real property terms as Part Lot 77 DP1031773, Parrot Tree Place, Bangalow. The land is currently zoned for agricultural use. The proponents of the land wish to proceed with rezoning the land to allow for future residential development in line with the Bangalow Village Settlement Strategy adopted in November of 2003.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to contaminated land issues. Clause 7(1) of SEPP 55 requires that a Council cannot approve an application for rezoning of land unless it has duly considered whether such land is contaminated.

This report has been prepared to assist Council in making that decision.

1.1 Scope of Work

This assessment has been undertaken to determine the relative risk associated with the rezoning of the land for residential development with respect to soil contamination. The tasks involved in undertaking this assessment were to:

- Identify the land use history of the site, with particular attention to any uses that may have led to potential contamination
- assess the site condition and surrounding environment to determine any visual signs of contamination, sensitive local environments or potential contamination "hot spots"
- based on the above, determine if soil sampling is required and if so, design a soil sampling pattern for the subject site
- analyse individual samples for a range of potential contaminants in relation to the environmental and health investigation levels recommended by the ANZECC guidelines (ANZECC, 1992) in addition to those recommended by NEPC guidelines (NEPC, 1999) to confirm if the presence of any contaminants represents a risk for future rezoning.

1.2 Summary

Previous site owners and managers were contacted and an oral site history can be obtained back as far as 1957. The oral site history provided indicates that the site has never been used for any other purpose than cattle grazing, no pesticides or herbicides have been used on the subject site, there is no records of the site ever having a registered cattle dip located on it or within 200m of the site and no crops were ever grown on the site succeeding 1957.

Although the site is considered to represent a very low risk of soil contamination, soil sampling was undertaken to ensure that if contamination was contained within the soils it would be identified prior to rezoning. A total of 21 soil samples were taken from across the

1

Environmentally Sustainable Engineering

*Part Lot 77 DP 1031773, Parrot Tree Place, Bangalow
SEPP55 Preliminary Investigation*

report 070016

site. Analysis of the samples show contaminant levels well below the relevant ANZECC and NEPC guideline limits.

It was concluded that the site does not represent a risk to human health or the environment through soil contamination and on this basis the land is suitable for rezoning for residential development.

Environmentally Sustainable Engineering ²

Part Lot 77 DP 1031773, Parrot Tree Place, Bangalow
SEPP55 Preliminary Investigation

report 070016

2 Site Description and History

2.1 Site Location

The site is located approximately 1.25 km south west of the centre of Bangalow and approximately 2.2km south west of the southern interchange with the Pacific Highway. The site is on the limits of existing residential development within Bangalow and adjoins existing developed land to the north and east. The site is divided into three separate portions by the roads Parrot Tree Place and Ivory Curl Place. The main portion is 5.8 Ha in size and is irregular in shape. The remaining portions are approximately 0.5 and 0.3 ha in size and predominately rectangular in shape. A site locality diagram is provided in **Exhibit 2.1**. An aerial showing the subject site in detail is provided in **Exhibit 2.2**.

2.2 Topography, Soils and Geology

The site is on gently undulating terrain. The highest point on the site is approximately RL 51 meters and occurs within the eastern third of the site. A large tree is growing at the highest point of the site. The lowest point of the site, at approximately RL 44 meters, is located at the most western point. A small named creek, Paddy's creek, meanders along the western boundary of the site and for a small section is partly located on the site.

The site predominately drains to the west and into Paddy's creek. A small portion of the most eastern part of the site drains eastwards under the railway line and Lismore road into Byron creek located to the south east of the site. All slopes on the site are generally less than 10% and no slumping or mass movements were observed to have occurred.

The soils of the area are mapped by Morand (1994) as being moderately deep, well drained Krasnozems over Lismore Basalts. The soils are a self mulching dark reddish brown with a clay loam texture. The soils are highly suitable for agricultural pursuits, being well structured and having a high nutrient storage capacity. Field observations taken while on site were consistent with the soil descriptions and mapping provided by Morand (1994).

A small mound was observed in the northeastern section of the site. The mound appeared to be comprised of local natural soils being consistent in color and texture with no large or obvious foreign material observed to be present within the mound. It was concluded however, that the stockpile was not naturally occurring and had been placed there some time within the past. Conversation with the current owner, Allan Johnston, indicated that the stockpile was placed there during the development of the adjacent residential area and comprised of native soils moved from another part of the site.

2.3 Surrounding Environment

Existing residential development is located to the north and east, the disused railway line abounds the site to the south with rural grazing land to the west.

Part Lot 77 DP 1031773, Parrot Tree Place, Bangalow
SEPP55 Preliminary Investigation

report 070016

2.4 Site History

The site is currently owned by *PICAMORE Pty Ltd.* who bought the site in 1993 and developed the surrounding residential area shortly thereafter. Prior to the purchase by *PICAMORE Pty Ltd.*, the site was owned and managed by Mr Alexander Herrmann.

Mr Alexander Frederick Herrmann owned the property for approximately 6 years prior to October 1993 when he sold it to *PICAMORE Pty Ltd.* Alexander's sister (name unknown) owned the property prior to these 6 years for a period of approximately 30 years (i.e. from approximately 1957). During the time that his sister owned the property, Alexander Herrmann was the primary manager, managing the property on behalf of his sister who lived in the USA for these 30 years. The daughter of Alexander Herrmann was contacted with regard to the site and its history and was able to verbally confirm that the land was solely used as cattle grazing, was never used to grow commercial crops during the years that her father ran the property and she had no recollection of chemicals ever being used in large quantities by her father on the property.

A search of the Department of Primary Resources dip site register was undertaken to determine if any dip sites had been located on or near the property. The database indicates that there has never been a cattle dip site on the property, or within close proximity of the property. The closest dip site was off Rifle Range road approximately 700 meters from the site.

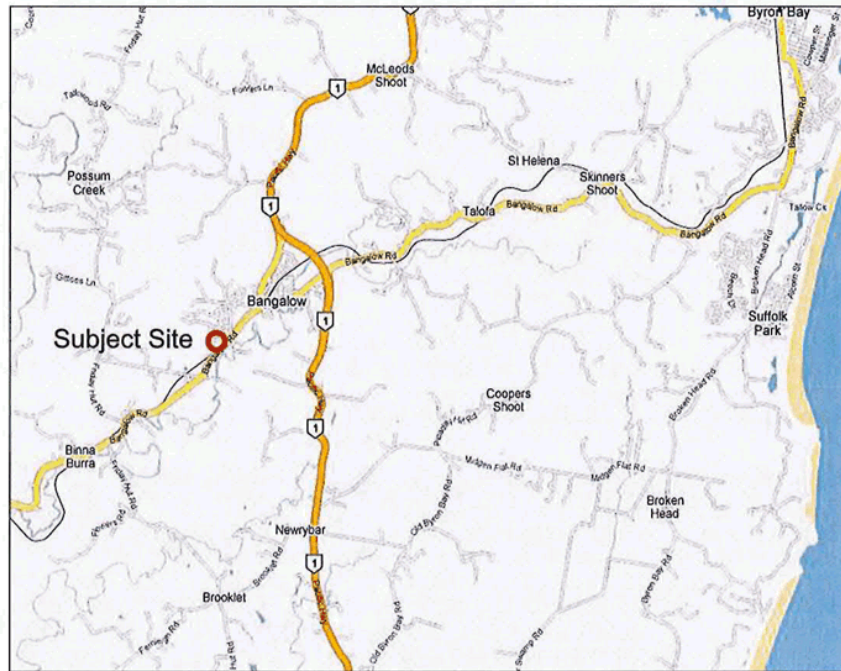
Beyond 1957, limited site history can be readily obtained. The site history is therefore not considered to be sufficiently conclusive to rule out the risk of contamination of soil on the subject site. However, it should be noted that the site history would suggest the risk of contamination of soils on the site is extremely limited and highly unlikely.

In accordance with the SEPP55 Guidelines, soil sampling should be undertaken to confirm that the soils on the site do not pose a risk to human health or the environment through past contamination if site history cannot categorically.

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Exhibit 2.1 Site Locality



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Exhibit 2.2 Subject Site



Source: Google Earth

Boundary location approximated only from cadastral information. No reliance should be placed on boundary locations.

Key:

— Site boundary (approximate only)

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3 Site Soil Investigations

3.1 Soil Sampling

The following sampling, analysis and data quality objectives have been adopted for this site investigation:

- to confirm the soils on the subject site do not pose a risk to human health or the environment through soil contamination
- to employ quality assurance when sampling, assessing and during evaluation of the subject soils
- to ensure that decontamination techniques are applied during the sampling procedure and that no cross contamination of samples occurs.

Table A (*Contaminated Sites Sampling Design Guidelines*, NSW EPA 1995) was taken into consideration when designing the sampling program. The potential for development and topography of the site were also considered when deciding the most appropriate sampling pattern for the subject site. Given that site history from 1957 indicates there to be a very limited potential for contamination of the site to have occurred, a reduced sampling density was applied to the site. A sampling density of 3.2 samples per hectare was adopted requiring the collection of approximately 20 individual samples. A systematic sampling pattern which covered the majority of the developable area of the site was adopted.

Due to the presence of an unnatural soil mound located on the site, an additional sample was taken from the mound to ensure the mound did not represent a risk of contamination. In total, 21 individual soil samples were collected at the locations indicated in **Exhibit 3.1**. 20 of these soil samples were then composited into five discrete composite samples for analysis. Sample no. CS5, taken from the soil mound observed to be on site, was analysed as a single sample and not combined into a composite sample.

Given the site history, proposed rezoning and the characteristics of the soils in the locality (i.e., deep, well drained, Krasnozems soils), it was not considered necessary to conduct soils sampling at depth. Thus, for the preliminary soil sampling investigation, surface soil samples only were taken. The sampling pattern and density adopted is considered sufficient to ensure that should soil contamination be present on the site, it will be detected. All samples were collected at the same depth of 100-200mm below surface and were of equal size (200mL). A small garden spade was used to collect each sample, which was washed and dried prior to the collection of the next sample.

The preliminary soil investigation was undertaken on the 9 February 2007. The weather was sunny and clear with a slight north easterly wind blowing.

3.2 Analysis

All samples were sealed, stored in a chilled esky and delivered to Environmental Analysis Laboratory (NATA Registered) within the Southern Cross University, Lismore. Samples were then composited by EAL staff in accordance with laboratory procedures before being processed for analysis. When compositing samples, results from each composite sample

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must be multiplied by the number of sub-samples (in this case, four) to provide an upper limit estimate of the concentration in any one of the sub-samples. Results are provided in **Section 3.5**.

3.3 Quality Assurance

All sampling was undertaken using the same quality assurance methodology. Prior to the site inspection, the equipment was thoroughly washed and decontaminated. During the sampling procedure the equipment was washed before each soil sample was taken to ensure there was no cross- contamination. A chain of custody form, which identified the sample identification code, the collection date and the type of analysis to be undertaken was fully completed and despatched with the samples.

3.4 Assessment Criteria

The ANZECC Guidelines are the accepted guidelines in Australia and New Zealand for establishing "threshold" levels in relation to soil contamination. These threshold levels suggest further investigation is required if levels are exceeded. The NEPC guidelines further expand on the ANZECC threshold limits based on health and environmental risk assessments for a variety of land uses including residential with varying levels of accessible soil risks, open space, commercial and industrial.

The investigation threshold levels identified by "ANZECC Guidelines for the Assessment and Management of Contaminated Sites" are provided below and were used to identify if high levels of contaminants exist at the site:

- Lead 300 mg/kg
- Arsenic (total) 100 mg/kg
- Cadmium 20 mg/kg
- PCB (total) 1 mg/kg

In addition, the results were compared to the following Health-Based investigation levels identified by "NEPC Guideline on Health Based Investigation Levels":

- OC (Aldrin + Dieldrin) 10 mg/kg
- OC (DDT+DDD+DDE) 200mg/kg

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Exhibit 3.1 Soil Sampling Locations



Key:

- Site soil sampling points

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3.5 Results

The laboratory soil analysis reports containing the full results are provided in **Appendix A**. A summary of the results and comparison to the guideline limits is provided below in **Table 3.1**.

Table 3.1 Sampling Results

Analyte	Single Sample Threshold (mg/kg)	Composite Sample Threshold (mg/kg)	CS1 (1.1,1.2, 1.3,1.4)	CS2 (2.1,2.2, 2.3,2.4)	CS3 (3.1,3.2, 3.3,3.4)	CS4 (4.1,4.2, 4.3,4.4)	CS5	CS6 (6.1, 6.2, 6.3, 6.4)
Lead	<300	<75	9.4	9.8	7.7	11.9	13.7	8.8
Arsenic	<100	<25	1.6	1.8	2.0	2.2	1.9	2.7
Cadmium	<20	<5	0.3	0.4	0.4	0.4	0.3	0.3
PCB's	<1	<0.25	nd	nd	Nd	nd	nd	nd
OC's	<10	<2.5	nd	nd	Nd	nd	nd	nd
OP's (DDT+DDD+DDE)	<200	<50	nd	nd	Nd	nd	nd	nd

nd - no detection

As can be seen from the above table, exceedances of threshold values for further investigation were not detected. All samples returned result well below the threshold investigation limits.

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4 Conclusions

Verbal historic information regarding the subject site could be obtained as far back as 1957. Historic information indicated that the site has only ever been grazed by cattle and has been free of potentially contaminating activities. However, the historic information gathered was not considered to be conclusive or sufficient to categorically indicate the site does not pose a risk of soil contamination. In addition, the activity of cattle grazing, which has been historically carried out on the site, is listed under Table 1 of the SEPP55 guidelines as a potentially contaminating activity. Soil sampling was therefore undertaken to confirm if any contaminating chemicals were present within the soil at the subject site.

The results of soil sampling undertaken at the site indicate that the soils on the subject site do not represent a risk to human health or the environment from soil contamination. Soil sampling results indicate that the site is unlikely to contain any significant levels of contamination for arsenic, lead, cadmium, organochlorines, organophosphate or Polychlorinated Biphenyls (PCB's). Concentrations in the samples taken were well below ANZECC and NEPC investigation threshold limits.

Further investigation on the subject site is therefore not warranted under the SEPP55 guidelines and the site is considered suitable for rezoning with regards to the potential for soil contamination.

Should there be any questions relating to this report please do not hesitate to contact the undersigned for further clarification.

Regards,



Cameron Black
Environmental Engineer

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References

Australia and New Zealand Environment and Conservation Council (ANZECC), 1992, *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*, Australia and New Zealand Environment and Conservation Council.

D. T. Morand, 1994. Soil Landscapes of the Lismore/Ballina 1:100,000 Sheet.

Environment Protection Authority, 1995, *Contaminated Sites Sampling Design Guidelines*, Environment Protection Authority, Sydney.

National Environment Protection Council (NEPC), 1999, *National Environment Protection (Assessment of Site Contamination) Measure 1999*, National Environment Protection Council.

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Usage Note

Black EARTH Environmental declares that it does not have, nor expects to have, a beneficial interest in the subject project.

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Appendix A

Laboratory Analysis Results

E n v i r o n m e n t a l l y S u s t a i n a b l e E n g i n e e r i n g

RESULTS OF SOIL ANALYSIS (Page 1 of 1)

21 soil samples supplied by Black Earth Environmental on 9th February, 2007 - Lab Job No. E6902
Soil samples supplied were composited by EAL into 5 composite samples for analysis
Analysis requested by Cameron Black Your Job - Picmore site

ANALYTE	METHOD REFERENCE	Job No.	Composite 1 site 1.1,1.2, 2.3,2.4	Composite 2 site 2.1,2.2, 3.3,3.4	Composite 3 site 3.1,3.2, 4.3,4.4	Composite 4 site 4.1,4.2, 4.3,4.4	Individual site 5	Composite 6 site 6.1,6.2, 6.3,6.4	Composite Acceptable Limit Column 1	Individual Acceptable Limit Column 1	Background Range
			E6902/1	E6902/2	E6902/3	E6902/4	E6902/5	E6902/6	See note 1	See note 1	See note 2
SILVER (mg/Kg DW)	a		0.6	0.9	1.6	1.4	1.1	0.8	na	na	na
ARSENIC (mg/Kg DW)	a		1.6	1.8	2.0	2.2	1.9	2.7	<25	<100	0.2-30
LEAD (mg/Kg DW)	a		9.4	9.8	7.7	11.9	13.7	8.8	<75	<300	<2-200
CADMIUM (mg/Kg DW)	a		0.3	0.4	0.4	0.4	0.3	0.3	<5	<20	0.04-2.0
CHROMIUM (mg/Kg DW)	a		98	96	126	154	174	144	..	..	..
COPPER (mg/Kg DW)	a		28	31	34	33	35	33	<250	<1000	1-190
MANGANESE (mg/Kg DW)	a		1274	1351	1151	791	1225	1288	..	..	..
NICKEL (mg/Kg DW)	a		36	47	42	38	41	40	<150	<600	2-400
SELENIUM (mg/Kg DW)	a		<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	na	na	na
ZINC (mg/Kg DW)	a		146	176	241	221	194	188	<1750	<7000	2-180
MERCURY (mg/Kg DW)	a		0.38	0.38	2.63	1.06	0.81	0.63	<3.75	<1.5	0.001-0.1
IRON (% DW)	b		10.5	9.9	11.0	11.5	11.3	10.3	na	na	na
ALUMINIUM (% DW)	b		5.6	5.4	5.4	5.5	6.2	5.9	na	na	na
PESTICIDE ANALYSIS SCREEN											
DDD, DDE, DDT (mg/Kg)	c		<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	<50	<200	<0.02
Other Organochlorine Pesticides (mg/Kg)	c		<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	<2.5	<10	<0.02
Organophosphate Pesticides (mg/Kg)	c		<0.1	<0.1	<0.1	<0.1	<0.1	<0.1	..	..	<0.1
PCB's (mg/Kg)	c		<0.2	<0.2	<0.2	<0.2	<0.2	<0.2	<2.5	<10	<0.2

METHODS REFERENCE

- ¹²Nitric/HCl digest - APHA 3120 ICPMIS
- ¹²Nitric/HCl digest - APHA 3120 ICPOES
- Analysis sub-contracted - results attached

NOTES

- Column 1 - Residential with gardens and accessible soil including childrens daycare centres, preschools, primary schools, town houses or villas' (NSW EPA 1998)
- Environmental Soil Quality Guidelines, Page 40, ANZECC, 1992.

Additional NOTES

DW = Dry Weight

Organochlorine pesticide (OC's) screen:

Organophosphorus pesticide (OP's) screen:

PCB's = Polychlorinated Biphenyls

na = no guidelines available

(Aldrin, Cis-chlordane, Trans-chlordane, HCB, DDD, DDE, DDT, Alpha-BHC, Beta-BHC, Delta-BHC, Lindane, Dieldrin, Endrin, Heptachlor, Heptachlor epoxide, Alpha-endosulfan, Beta-endosulfan, Endosulfan sulfate, Methoxychlor)
(Dichlorvos, Phosdrin, Demeton (total), Ethion, Monocrotophos, Phorate, Dimethoate, Disulfoton, Methyl parathion, Chlorpyrifos, Ronnel, Parathion, Stirofos, Prothiofos, Azinphos methyl, Coumaphos, Fenitrothion, Fenthion, Malathion)
(Arochlor 1016, 1232, 1242, 1248, 1254, 1260)

checked.....

Schedule 3 Form of special disclosure of pecuniary interest

submitted under Clause 4.25 of the Code of Conduct for Councillors

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.24(c) of the Byron Shire Council Code of Conduct for Councillors (the Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

[name of council or council committee (as the case requires)]

Report No. _____ to be held on the _____ day of _____ 201

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2 - ATTACHMENT 2

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (<i>the identified land</i>)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has interest in the land (e.g. is owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest³	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (<i>the subject land</i>) ⁴ [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

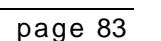
Councillor's signature

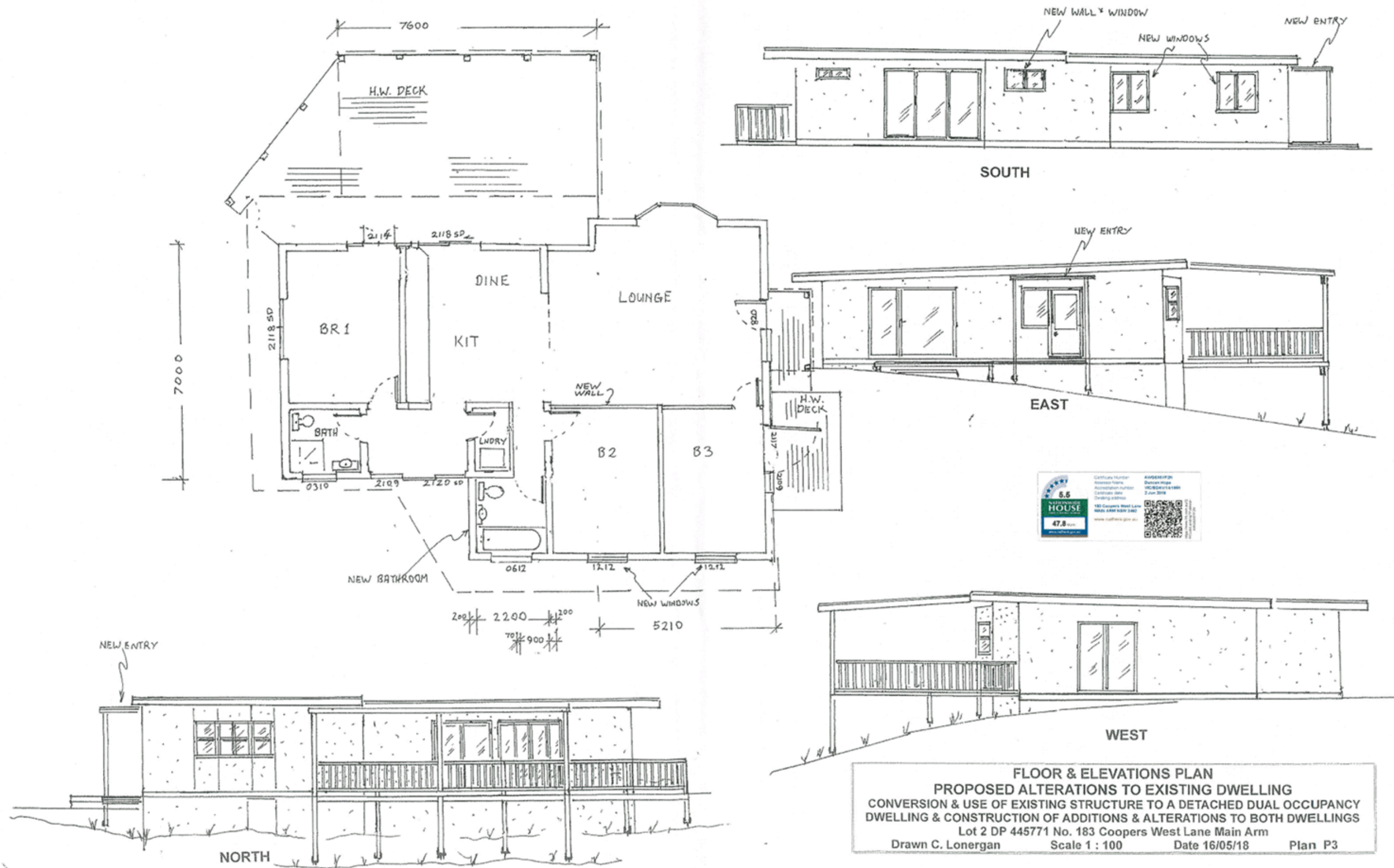
Date

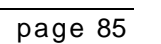
[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

³ Clause 4.1 of the Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.

⁴ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Code of Conduct has a proprietary interest.







Duncan Dey

water engineer, BE(Civil), MIEAust

PO Box 925
 Mullumbimby
 NSW 2482
 Australia
 +61 2 6684 5440
 +61 429 845 440
 dd@ddo.com.au

the General Manager
 Byron Shire Council
 PO Box 219
 Mullumbimby 2482

22 August 2018

objection to DA 10.2018.384.1 for
183 Coopers Lane West, Main Arm 2482

Dear GM

I have objected to the building referred to in this DA as the "Dual Occupancy" dwelling since then owners Anna and Tim commenced building it. In 2016 I complained to Council when the next owner Grant Luisetti removed trees and duplicated the building eastwards. Council apparently issued stop work notices at the time but did not enforce them. Construction was completed 'under our noses'.

Council eventually issued an Order to demolish the dwelling and to restore a further (rented) shed to its original form. Council mistook that form as including an approved metal shed. That approval however belongs to a different Lot, not Lot 2. The original form of the shed prior to being made habitable by Luisetti was an uninhabitable set of metal sheets that may have once been a banana shed from the 1960s.

The Order was lifted on the basis that a DA would be submitted to legitimise the buildings. The property was then sold to its current owner. The current DA seeks to legitimise the condemned dwelling but fails to address the issue of the shed, whose location is indicated at "Shed" on site plans within the DA (eg at PDF pages 76 and 122 of 131).

I suggest that, if approval is considered, a Consent pre-Condition requires that the structure marked as Shed on the site plans (reference) be removed or restored to its earlier uninhabitable and unserviced form (a dilapidated banana shed).

The Dual Occupancy dwelling was built with no government approvals. The then owners chose to locate it smack in the middle of the view from my approved dwelling. It remains an eyesore, made worse by Mr Luisetti felling about 50 tall trees that used to partially screen it. Re-establishing that screening is impossible under the current proposal but the issue can be resolved by relocating the building northwards, out of my view and if necessary as far as the proposed module. It is a light-weight structure and investment in foundations was minimal. I wrote to prospective owners early in 2018 via the selling agent alerting them of my request. Relocation would have been easier prior to construction about 10 years ago. It would have been easier prior to expansion in 2016. It is still necessary.

The lightness of foundations for the building is another issue for it. The current DA ignores this issue. Why is there no Structural Engineer's report on building foundations? To my knowledge they are undersized and were a headache to the previous owner, for reasons including:

- the site was chosen by unqualified persons, without soils testing;
- the foundations were not designed; they are extremely shallow (one fifth the depth of those on my own building, in the same soil type) and were concocted by the backhoe operator;
- the site gets extremely wet due to stormwater from two roadways directing their runoff onto Lot 2 at their intersection just uphill of the building;
- the weight of the building has increased massively with refurbishment.

(DD:DD to BSC re DA378, page 1)

Relocating the building overcomes the need for a structural report for its current site. If it is not to be relocated, the foundations need to be investigated for structural adequacy.

In relation to what is applied for in the DA, I submit the following:

1. the estimated cost of \$135k is low - it ignores investment undertaken prior to lodging. This includes expenditure on the unlawfully built "Dual Occupancy" dwelling in particular. Ignoring this matter gives yet further incentive to the illegal development industry. If the \$135,000 cost figure is accepted, it constitutes a discount to illegal development.

The opposite scenario should apply - development applied for and approved prior to construction should be the cheapest option. Please do not give poor practice a free ride!

Please reassess the cost of this development as including costs of everything applied for that was not previously approved. I estimate that at \$400k including: all expansions of the approved dwelling since its approval; cost of constructing the Dual Occupancy building; cost of the proposed module; infrastructure such as on-site sewerage, driveways, etc.

2. in relation to Construction Certificates (Step 10; PDF page 3 of 131), no certificate is submitted for the existing Dual Occupancy building. Why is a Certificate not required? When will the question of the integrity of this jerry-built structure be examined? This impacts on the current DA because, when the poor nature of the construction (both original and expansion) is established, my suggestion of relocating it downhill becomes the best option for all parties.
3. the DA's Introduction (PDF page 10 of 131) claims that all development and works are to be located within the dominant RU1 zoned section of the property. This is wrong. There is no survey to support the claim. Some of the development is proposed in the 1B2 zone of the previous LEP and is zoned as Deferred Matter in the current LEP 2014. Lack of survey and wild claims of distances pervade this Application. Survey should be required.
4. PDF page 10 also claims that existing buildings are of cream and grey cladding with light grey colourbond roofs. This is repeated through the DA but is incorrect. The unapproved dwelling has walls of various colours not cream or grey. It has various roof colours not light grey - they include green and brilliant white.
5. removal of Grey Ironbark trees as applied for (eg at PDF page 12) and should not be approved as the building cannot be approved in its current unapproved location.
6. this proposal meets neither of the Objectives in Clause 4.2A of LEP 2014. It does not "minimise unplanned rural residential development". Demolition of the unlawfully built Dual Occupancy building would achieve that. The proposal also isn't to replace a lawfully erected dwelling houses or dual occupancy. The proposed Dual Occupancy must not be approved in its current location - that location was unplanned and the building was erected unlawfully. A correctly planned location would not be on the current site.
7. part (3) of Clause 4.2A of LEP 2014 prevents Council approving this proposal because:
 - (a) the land does not meet the minimum Lot size 20ha prescribed on the Lot Size Map;
 - (b) it is not a Lot created under this LEP; (c) it was created before LEP 2014 commenced but with permission only for a dwelling house, no dual occupancy; and (d) no plan of subdivision was awaiting registration when LEP 2014 commenced.

The primary criterion of a 20ha Lot area is not met. Despite claims on the DA's PDF page 13, the Dual Occupancy proposal is not permissible.

8. part (2) of Clause 4.2D of LEP 2014 also prevents Council approving the proposed Dual Occupancy because:
 - (b) each dwelling uses a separate access to a narrow shared road with very steep slopes and with blind curves and corners including at all three current entrances;
 - (d) the land is not physically suitable for the proposed development due to it being:
 - (i) too small at 2.18ha - one ninth of the minimum 20ha;
 - (ii) being bush fire prone with steep slopes downhill of it and inadequate distances for APZs within the Lot, as discussed later in this submission;

(DD:DD to BSC re DA378, page 2)

- (iii) having inadequate access both for fire safety and for addition of another dwelling's traffic to that of the dozen properties that already risk their lives on this narrow steep private access track with blind corners.
 - (e) the property is incapable of supporting the required on-site sewage infrastructure which is why the proposal includes a self-assigned concession on Nitrogen balance in its design (PDF pages 58, 74, etc). The disposal area proposed is about half what it should be - see attached spreadsheet model. No basis for the concession is explained nor is it proposed as a request, because that would expose the fact of inadequacy of the property to support the infrastructure required;
 - (f) the development will have an adverse impact on the scenic amenity and character of the rural environment in this locality. There are dozens of buildings in Coopers Lane West but all are discretely located, all are out of view of their neighbours. There is no basis on which to break with this positive community practice other than that the building already stands in its poorly chosen location. The Dual Occupancy proposal should not be approved on that site.
9. in relation to setback distances (DCP D1.2.2; PDF page 16), the distances claimed are large but not the product of a survey. They ignore a problem with the proposed Dual Occupancy building, which comes to within 6m of the centreline of the access track to about 10 properties further up the hill. The RoW is 5m wide and restrained in the east at the Dual Occupancy by a telephone pole (essential infrastructure for many existing approved dwellings). This DA proposes a bedroom just a couple of metres from that access track, in a rural area where this tight style of development is neither necessary nor welcome. This is not an urban area and is not zoned so.
 10. in relation to setback distances (DCP D1.2.4; PDF page 17) this proposal offends Performance Criterion 3 "minimise loss of privacy". The Dual Occupancy is in full view of my approved dwelling and has full view of my dwelling its surrounds. No screening is proposed, or possible, because of slope and because the proposed APZ must be free of tall trees. At the edge of the proposed 50m western APZ, a tree would have to be 9m taller than the building to effect screening (see my point 54 below). In addition to that, the building is far less than 50m from my boundary and the proposed APZ is not even contained on Lot 2.

I do not give permission for management of the proposed APZ on my property.
 11. in relation to setback distances (DCP D1.2.4; PDF page 18 of the DA) this proposal offends Performance Criterion 8 "incompatible and reflective materials". The DA claims roofs will be Shale Grey and walls light cream and grey - these are not the current colours. Roofs on the Dual Occupancy building are green and bright white. If the whole building is to be re-roofed, this should be articulated in the DA but isn't. The current white roof is extremely reflective. Current green roofing does not match the surrounding bush.
 12. the DA claims at the bottom of its PDF page 17 that "pitched profile roof, soft elevation lines ... blend the proposed dwelling into the site". As this building already exists on the site, it can be examined in situ at a 1:1 scale. The pitched roof makes the building way taller and dominant than it need be. It can claim no soft elevation lines.
 13. DCP part D1.3.1 cites part B4 *Traffic Planning, Vehicle Parking, Circulation and Access* for parking and access requirements. The chapter aims 1. to ensure that all relevant traffic impacts relating to development are identified, assessed and mitigated; and 2. to ensure that entry/exit points to car parking and service/delivery areas are situated in a way that sight distances are maximised, and disruption to the circulation of vehicles on the public road system is minimised.

The DA ignores part B4 of the DCP. If the DA considers the *banana road* that passes through Lot 2 to serve about 10 other properties as private, then that approach should be carried across into bushfire assessment elsewhere in the DA. If it considers the road public, then the impact of the Dual Occupancy building needs to be considered. It is so close to the RoW that the 5m width required for passage on the RoW is not available.

(DD:DD to BSC re DA378, page 3)

In addition, the two existing entrances to the original dwelling and the separate new entrance proposed to the Dual Occupancy are a nightmare for uphill road users. The original two require vehicles to back out onto the shared roadway at a pinch point. The latter is blinded by landscaping that usurps the RoW in an attempt to screen the building.

The proposed arrangements are unsatisfactory, whether required by the DCP or not.

Clause 2 of DCP section B4.2.3 states "All parking and service areas shall be provided with sufficient manoeuvring areas to allow vehicles to enter and leave the site in a forward direction. Dwelling houses and dual occupancy developments are exempt from this requirement except when located on roads with high traffic volumes or with short sight distances, or on roads with other traffic safety issues". This proposal is on a road with short sight distances, and other safety issues (steep slope, inadequate width, etc).

Clause 5 of the same section states "Internal driveways for more than three dwellings should have a minimum driveway width of 5.5 metres to facilitate two-way access. The driveway width may be reduced to a minimum width of 3.5m where there are no potential internal driveway conflicts or traffic safety issues having regard to the following". The factors b), c) and d) listed thereafter are illuminating - this proposal flies in their faces.

Landscaping at the entrance to the proposed Dual Occupancy offends DCP section B4.2.4 *Structures Adjacent to Driveways*, making the entrance dangerous as well as it contravenes the multiple entrance issue.

14. the DA claims against DCP Objective D1.3.1 that car parking at the original dwelling is off the RoW. There has been no survey to show that is off the RoW. Likewise, no survey shows where the Dual Occupancy sits in relation to the RoW or to property boundaries.
15. in relation to DCP part D2.5 *Rural Dual Occupancy*, the proposal fails to meet the Objective of "adequate on-site accommodation of vehicles for residents and visitors". Parking for the original 3-bedroom dwelling plus 2-bedroom module is not adequate for a 5-bedroom dwelling with no transport option other than private motor vehicles. Both entrances require backing out onto the RoW. The entrances are located on and at the crest of one of the steepest and narrowest sections of the RoW, "the S-bend". Only three parking spaces are proposed. This is not adequate for residents and visitors of a 5-bedroom dwelling. Parking will occur willy-nilly all over the RoW, to the detriment of safety on the S-bend and of convenience for other road users.

Section 4.2 *Access and Parking* (PDF page 51) of the DA fails to adequately address the matters of access and parking. As explained above, the access proposed is unsafe. The two-entrance arrangement for the 5-bedroom dwelling does not "optimise traffic safety" as claimed. This section of the DA fails to even address the access or parking for the proposed Dual Occupancy building.

These matters must be resolved before this DA can be assessed. If the current proposal were to gain approval, it would have to be with Consent Conditions requiring adequacy.

16. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails Performance Criterion D2.5.1 of a shared driveway. Three entrances are proposed. And it is unreasonable for the DA to claim that sharing of a driveway happens off Lot 2. That would mean that the "driveway" is over 1km long, ie back to the public road Coopers Lane.

These buildings, if approved, must share one access onto the steep, narrow, dangerous "banana road" that serves about 10 Lots further up the hill. The current three entrances are an unreasonable impost on both the safety and convenience of uphill road users (residents and their visitors).

17. The DA claims in the right hand column on PDF page 19 "2 cars per dwelling". This is indicative of an Application so full of flaws that this DA should be re-exhibited after this and its many other mis-claims and anomalies are corrected. DCP part D2.5 *Rural Dual Occupancy* is the lynchpin of how the developer and Council deal with this proposal, which aims to legitimise an existing unlawful Dual Occupancy. It should be respected.

(DD:DD to BSC re DA378, page 4)

18. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails to meet the first Objective of section D2.5.2 - compatibility in character with development in the locality. The DA responds to this section by claiming that "the visual isolation of the existing building ensures that it blends into the rural character of the locality". This is a ridiculous claim. There are no other Dual Occupancies on the hill and this proposal is an eyesore as well as a perfect example of poor development practice: the build first and seek forgiveness later approach.

As raised above, the proposed Dual Occupancy building is located too close to the RoW. To overcome this, the RoW is currently densely planted and includes solid obstacles. This prevents adequate operation of the RoW, which should allow a passage 5m wide.

Also, as I point out elsewhere in this submission, the Dual Occupancy building is located where adequate bushfire APZ's cannot be created or maintained.

Thirdly, the proposal fails the shared entrance requirements of the DCP.

Such tight development pays no respect to the rural character of the locality. This feeds back into the LEP requirement that the Lot have sufficient area for the development proposed. This Lot is one ninth of the minimum 20ha area.

The DA fails this DCP concept and does not conform to the LEP zoning.

19. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the second Objective of section D2.5.2 on minimising footprint through the location of dwellings and the use of shared services and common areas. The Dual Occupancy dwelling should be relocated close to the original dwelling so they share a single driveway entrance, on-site sewerage and common APZ's. There is insufficient land area for what is proposed in this DA. The LEP requires that sufficient area be available - hence its minimum land area of 20ha.

20. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the first Performance Criterion in section D2.5.2 "design to minimise loss of privacy, the visual impact of the proposal". The DA only once considers the visual impact of the proposal, in its section 3.8 on PDF page 50. It dismissively and wrongly says "the western dwelling is visible from a distant elevated dwelling on the other side of the valley to the west. Screen plantings will overcome this overlooking within the next few years".

There is no valley on the line of sight from my dwelling to the site proposed for the Dual Occupancy building. It is not on the other side of anything and it is not distant.

Nowhere in the DA are screening plantings proposed. The scale of planting required (see my point 11 above) is not permissible within an APZ proposed in the DA for the Dual Occupancy.

I do not give permission for management of the proposed APZ on my property. Likewise, I do not give permission for screening to be established on my property, whose boundary comes very close to the Dual Occupancy building.

21. The DA's section 3.11 Relationship to Adjoining Development, fails to address negative impacts of this proposal on my approved development. The siting of my dwelling was chosen on the basis of not having to look at other buildings. I object to the value of my property being diminished by the imposition of this overdevelopment in an unnecessary location dominating the vista from my approved dwelling.
22. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the second and fourth Performance Criteria in section D2.5.2 - visual quality and visual amenity.
23. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the 2nd Prescriptive Measure in section D2.5.2 (b) same vehicular access.
24. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the fourth Prescriptive Measure in section D2.5.2 (e) on-site disposal and management of sewage. The DA proposes a concession on Nitrogen balance at PDF pages 58, 74, etc. The disposal area proposed is about half what it should be - see attached spreadsheet model. No basis for the concession is explained nor is it proposed as a request, because that would expose the fact of inadequacy of the property to support the infrastructure required.

(DD:DD to BSC re DA378, page 5)

25. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the fifth Prescriptive Measure in section D2.5.2 (f) scenic amenity and character. There are dozens of buildings in this rural locality but all are discretely located, out of view of their neighbours. There is no basis on which to break with that practice other than that the Dual Occupancy building already stands, in its poorly chosen location. Approval should not be granted for it to stay on that site.

26. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the first Performance Criterion in section D2.5.2 "assessment of potential conflicts and buffer requirements pursuant to chapter B6". The DA commits to the current site for the existing Dual Occupancy building and thus fails to consider the siting question. A suitable site exists a short distance downhill where the building would not be seen by neighbours. Approval should not be granted for it to stay at the current location.

Section B6.1.1 *Purpose of this Chapter* in Chapter B6 states "The emphasis in this Chapter is on identifying current and potential future land use conflicts at the outset and designing to avoid them during the development process where possible". This DA proposes development that offends this principle.

Section B6.1.2 *Application of this Chapter* states "This Chapter applies to all of the land subject to Byron LEP 2014".

Section B6.1.3 *Aims of this Chapter* includes as its first aim "To ensure that potential land use conflicts are identified early in the development process". This DA is the very first step in a development process and this conflict should now be resolved, by the location of the proposed Dual Occupancy being shifted to a more discreet location downhill.

At section B6.2.1, the chapter declares an Objective "To ensure that existing legitimate development and land uses are not compromised by new development". This articulates the problem with the location proposed for the Dual Occupancy building in relation to my approved dwelling location.

At section B6.2.2, the chapter declares an Objective "To ensure that potential for land use conflict is identified and addressed systematically in the early stages of the development application process". This DA fails to address or resolve this conflict.

At section B6.2.4 *Buffers*, the Objectives include number 2 "To outline controls for buffers aimed at reducing land use conflicts between proposed new development and existing, legitimate land uses where development design and siting cannot deal satisfactorily with land use conflict". The principle is that siting is the primary method of avoiding land use conflict, to be used before and instead of other means such as buffer treatments.

27. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the 2nd Performance Criterion in section D2.5.2 ".... bulk, scale, height and character of the locality and nearby development". The DA proposes 7 bedrooms on this small property. Neighbouring properties are larger and have approvals for 2 or at most 3 bedrooms. The residential density proposed in this DA is out of whack with the rest of the neighbourhood.

28. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails Performance Criterion 3b) in section D2.5.2 "reasonable protection of existing views from neighbouring houses". The DA proposes unnecessary damage to the view from my approved dwelling.

29. The *Summary* on PDF page 22 of the DA claims that the proposal "will in no way prejudice the proper future planning of the area". This is wrong. Firstly, were I to consider a Dual Occupancy on Lot 1 DP 405191, it could have been located close to the eastern boundary. If the proposed Dual Occupancy is approved in its current (unlawful) location, my Dual Occupancy would no longer be able to take advantage of the lower part of my property. Future planning of the area is thus prejudiced.

More importantly however, approval of the Dual Occupancy applied for in this DA will act as a precedent to similar development on this hill and must be considered in that light. If the dozen or so Lots that use the "banana road" duplicate their number of dwellings, that will double traffic in the long term and fill the road with tradies in the short term. If Lot 2 and other properties on the hill duplicate, the risk of bushfires will also double.

(DD:DD to BSC re DA378, page 6)

Further to these issues of road and fire risk, most secondary dwellings would be rented. There is inherent turn-over of tenants and they have a lesser feeling of belonging than do owner/occupiers. New drivers unfamiliar with the "banana road" are the biggest risk on the hill. Many such drivers have no concept of braking distances down hills like this, with slope > 15°. The road is narrow and near misses are already frequent. Most incidents are with visitors rather than permanents.

Many new rural residents also have no concept of bushfire and of precautions to avoid it.

These risks are real and a change that doubles the number of residences in this valley (or on undersized rural properties throughout the Shire) should not be taken lightly, nor at the behest of just one owner of a property that happens to contain unlawful buildings. The principle planning criterion of the LEP 2014 should guide this matter - second dwellings should occur on properties only when they are larger than 20ha.

30. Discussion under section 2.10 *Landscaping* of the DA (PDF page 23) suggests that landscaping "will achieve a broad habitat base within an urban location". I agree that this proposal urbanises a rural neighbourhood and I object to that. If reference to an urban location is a mistake within the DA, it is one of many and should be rectified along with all others, then the DA re-exhibited.

On the substantive issue of landscaping, there are at least two Site Plans within the DA. The Site Plan on PDF page 127 shows a solid row of "Compensatory Plantings" down the centre of Lot 2. This screens nothing except the unlawful "Shed", which is not visible from the west.

If this Plan was prepared "in conjunction with Mr D Sweet Ecologist" as claimed on PDF page 23, why is there no report or a "Landscape Development Plan" from Mr Sweet? Has he ever been to the site? Who is he and why is he not revealed by internet search?

31. As raised in my Points 10 and 20 above, the DA barely considers screening westward of the proposed Dual Occupancy. Prescriptive Measure 1b) of DCP part B.9.5.1 suggests screen planting around boundaries of the site. Prescriptive Measure 1d) suggests planting selection that relates to building scale and mass. Also as in my Points 10 & 20, screening is likely impossible by planting as the APZ cannot contain large trees.

If otherwise approvable, the proposed Dual Occupancy building should be relocated.

32. Prescriptive Measure 1a) of DCP part B.9.5.1 suggests retention of existing vegetation. In assessing this DA, Council should recall that in 2016 a previous owner unlawfully felled significant eucalypts on each side of the Dual Occupancy building, as part of this development process. Council has records of the tree removal, under complaint reference 30.2016.6435.1. Compensatory planting should be required so that the building is screened from the west. If this is not feasible due to bushfire requirements, an alternative building location should be found.

As stated at Prescriptive Measure 11 of DCP part B9.3 *General Landscaping Principles*, "where the proposed development is located on land mapped as Bushfire Prone Land, landscaping around proposed buildings must comply with the current legislative requirements of the Rural Fires Act, 1997 in regards to measures required to protect the proposed development from bushfires". The fire arrangements for the proposed Dual Occupancy building do not pass muster.

DCP part B9.12.3 Climate and Microclimate includes one Prescriptive Measure that "in summer the western elevations of buildings should be protected from the afternoon sun with trees of suitable mature height". The location chosen for the Dual Occupancy is again unsuitable because this measure, although highly desirable for visual screening, is incompatible with a cleared APZ as proposed for bushfire protection.

If otherwise approvable, the building must be relocated so that these Measures and others can be applied.

(DD:DD to BSC re DA378, page 7)

33. The DA claims on PDF page 27 that "the proposed landscape plantings ensure that the buildings will be well screened both within the site and from adjacent properties". Nowhere in the DA is any planting proposed west of the Dual Occupancy building. The claim is ridiculous, a total dismissal of an important issue. The developer should deal with this issue and several others as outlined above, so the DA can be re-exhibited.
34. Given that the DA is so flawed in other areas of consideration and that Mr D Sweet is not cited as making the claim on PDF page 29 that "no species of threatened native flora exist on the site", this unsubstantiated claim should be challenged and a proper flora assessment undertaken.
- The DA claims that "the site is currently devoid of significant natural vegetation stands". However, once the APZ is re-assessed as requested in this submission, a significant stand of native vegetation down the steep gully north-west of the Dual Occupancy site will have to be included in bushfire considerations. The site is thus not "devoid".
- This section of the DA needs rethinking, unless the Dual Occupancy site is shifted north to a more suitable location.
35. Information provided on PDF page 29 is yet another example of flawed preparation within this DA. The DA claims in sentence three of the fourth bullet point that "spot levels are shown on plans" and that "the site is relatively flat". Both these claims are false.
36. Section 2.11 on PDF page 31 of the DA raises the issue of Bushfire. Assuming the assessment that follows is by the DA's author C Loneragan, I ask whether he is qualified for the task. Errors abound and raise doubt over the author's competence in this field. The first example of this is on PDF page 32 with the claim under "Slope" that it is "flat" over distances of 100m from buildings. There is a gully of about 50m elevation on Lot 2. It is located about 70m north-west of the proposed Dual Occupancy building site, as shown in the Google Maps picture below.
- The gully is beyond climbable - slope is likely 45°. Fire risk up that gully is extreme. The bushfire section of the DA should be rejected.



37. The picture above also indicates an area devastated by the previous owner felling about 50 mature pine trees due west of the proposed Dual Occupancy building, which sits at the south-east end of the distance indicator. This 'tinderbox' of dry softwood includes dead tree carcasses suspended up to 3m above ground level by poor felling.

The DA claims an APZ of 50m west of the building. Apart from that distance extending well onto my property, it includes this highly flammable material.

(DD:DD to BSC re DA378, page 8)

- Bushfire claims of this DA should be rejected and the matter reconsidered by a qualified and competent expert, preferably independent as should be the case with through RFS.
38. At the top of PDF page 34, the DA claims "50m west of the Dual Occupancy Dwelling ... will be maintained as lawn and isolated trees". This illustrates the following issues:
 - (i) 50m from the building is well over the boundary, ie off Lot 2. I give no permission for APZ maintenance on my property and I ask that the building be screened by trees.
 - (ii) within the 50m distance are fallen pine trees in tinder dry condition.
 - (iii) the idea that 50m is adequate ignores the steep forested slope northwest of the Dual Occupancy building. The distance falls short, as does the assessment itself.
 39. In the Table on PDF page 35, examination of only the four compass points overlooks the critical direction north-west. Under correct RFS procedure terrain must be examined for at least 100m in all directions (RFS guide *planning for bushfire protection* of 2006, "PBP"; in its Appendix A, section A4.1). As raised in point 34 above, there is a steep forested gully to the north-west. The *Huonbrook* 1:25,000 topographic map for this area shows a fall of 4 contours (ie 40m) over 100m in that direction. That is a slope of 1 in 2.5, or 21°. Slopes of 10-15deg claimed in the DA are wrong. There is no evidence of survey or of measurement of slope. This oversight is yet another flaw in the DA documentation. Under PBP Table A2.5, an APZ of 45m is required for downslopes of 18°. The PBP then also says "effective slopes to be assessed with hazards in excess of 18 degrees will require a detailed performance assessment". That is the case for the proposed Dual Occupancy building - a detailed performance assessment is required. Bushfire matters should be re-examined, by a qualified and competent expert preferably independent as should be the case through the RFS.
 40. At PDF page 35, the DA addresses fire-fighting access by implying that the banana road RoW constitutes "Public Road Access". The nearest public road is Coopers Lane, about 2km away. Coopers Lane West from there is a "public" Right of Way only between the two cattle grids. There is no maintenance agreement for any of Coopers Lane West. The DA overlooks this issue, which would be a critical detail in a proper assessment.
 41. Coopers Lane West is not all sealed as erroneously claimed in the DA. The first part between the cattle grids is unsealed as is a further 300m flat section west of that.
 42. The width of the banana road west of the second cattle grid is generally 2.5 to 3m. Slopes range up to and probably over 15°, including a long slope at 15° gradient with a blind corner near the top. The banana road passes through steep dry sclerophyll forest for most of its length and is the sole access to Lot 2, except for an even steeper concrete strip track to the south. That route is privately owned by several owners, passes through forest and is sometimes locked in one and sometimes two locations. The DA fails to even mention these factors.
 43. Chapter 1 of the PBP includes a highlighted box on the Aims and Objectives of the PBP. Objective (iv) is "to ensure that safe operational access and egress for emergency service personnel and residents is available". This objective cannot be met at this site. The property's entitlement should not be expanded beyond the single dwelling already allowed and built. Dual Occupancy should not be permitted on this property or any other on this hill.
 44. Section 2.4(a)(ii) of the PBP says "Section 79BA of the EP&A Act requires compliance with PBP and, where an infill proposal does not comply with acceptable solutions in Chapter 4, consultation by the consent authority with the RFS is required". Infill development proposed in this DA does not comply with acceptable solutions, for reasons explained elsewhere in this submission. The RFS must be consulted.
 45. Section 2.4(b) of the PBP says "The consent authority is only required to consult with the RFS under section 79BA when a proposed residential dwelling (i.e. infill) does not comply with the "acceptable solutions" within section 4.3 of this document or meet performance requirements".

(DD:DD to BSC re DA378, page 9)

This DA proposes infill development that does not comply with the acceptable solutions and does not meet the PBP's performance requirements. The RFS must be consulted.

Local RFS officers do not think this hill can be safely serviced.

46. Under PBP section 4.3.2, proposals for infill development are to (amongst other things) "not result in an increased bush fire management and maintenance responsibility on adjoining land owners unless they have agreed to the development".

As I do not agree to the Dual Occupancy building proposed in this DA, the proposal does not meet the Objective described in PBP section 4.3.2.

I also object to the increased fire risk to my property from a new dwelling downhill.

And I object to the 50m APZ required for the Dual Occupancy as that comes onto my land and prevents screening of the building from my view.

47. Apart from the DA's proposed Dual Occupancy building failing s4.3.2 *Specific Objectives* of the PBP, it also fails the second paragraph of that section: "ideally, APZs, access and service supply standards for infill developments should be provided in accordance with the acceptable solutions applied to residential subdivision (see section 4.1)". Issues in PBP section 4.1 where the proposal fails include:

- (i) being bush fire prone with steep forested slopes (> 18°) downhill and inadequate distances for APZs within the Lot;
- (ii) poor fire-fighting access including a long, steep, forested and narrow track with no acceptable egress and no maintenance plan;
- (iii) the addition of extra fire risk to the locality.

Sections 4.1 and 4.2 of the PBP apply to this DA because it is unable to satisfy the criteria qualifying it for section 4.3.

48. Further relevant issues raised in the PBP include lack of a maintenance plan for access to Lot 2 (Coopers Lane West) which is wholly Rights of Way through private properties. Road maintenance is ad hoc and relies on voluntary financial contributions by disparate groups of landholders. There are no legal obligations on any party to maintain any portion of the route on which fire-fighters or other emergency services access Lot 2.
49. The PBP offers good advice at PDF page 34: "For internal roads, at least one alternative access road needs to be provided for individual dwellings or groups of dwellings more than 200 metres from a public through road. The routes of these roads should be selected to ensure that both roads are unlikely to be simultaneously cut by a fire". In the case of Lot 2, distance to a public through road is well over 200m and probably over 1km. As outlined in my point 42, the only alternative route is steeper than the Lot 2's RoW and suffers the same defects (narrow, steep, forested) plus that of gates in two locations sometimes being locked. Fire could easily engulf the whole hill, ie both access routes.

In addition, the cumulative impact of doubling the number of houses on the hill has to be considered as it will double the potential for fire-fighting and other emergency vehicles to be confronted with traffic panicking in the opposite direction.

50. At the PBP's PDF page 42, the third paragraph in Background to section 4.3.5 says: "Proposals to reduce APZ requirements or utilise adjoining lands need to consider the advice on exceptional circumstances in section 3.3". At section 3.3 *Exceptional circumstances for APZs*, the PBP discusses in section (b) *APZs on adjoining lands*: "Neither the RFS nor a council has the power to impose an APZ on an adjoining landowner. It is the developer's responsibility to negotiate with adjoining land owner/s as part of the development application process". No negotiations have taken place, despite the APZ proposed for the Dual Occupancy building extending onto my property. I give no permission for it to.

51. That section 3.3 of the PBP also says "Reduced APZs and the use of adjoining lands for meeting APZ requirements will only be permitted in exceptional circumstances based on the merits of the particular development". This proposal has no special merits. The 50m APZ proposed in the DA can only be provided by relocating the Dual Occupancy building.

(DD:DD to BSC re DA378, page 10)

52. Page 43 of the PBP provides a Table against which proposals such as within this DA can be considered.

In relation to the first row of that table, an APZ cannot be achieved for the Dual Occupancy building for reasons outlined at various points above including (i) that a 50m distance is not available westwards on Lot 2, and (ii) the assessment underestimates that distance at 50m because it ignores steep forested terrain north-west from the building. The APZ has not been determined in accordance with chapter 2 of the PBP. It is likely to have to be well more than 50m in the north-west direction.

In relation to the second row of that table, the Dual Occupancy building is not designed nor sited to minimise the risk of bush fire attack. If the building were sited with the principles in section 4.3.5 of the PBP, it would not be located where the DA proposes. This is yet another reason why bushfire matters should be re-examined, by a qualified and competent expert preferably independent as should be the case through the RFS.

In relation to the fourth row of that table, bush fire assessment in this DA for the proposed Dual Occupancy building does not satisfy the intent and performance criteria for access roads as required under sections 4.1.3 and 4.2.7 of the PBP. Section 4.2.7 calls up Appendix 2 of the PBP which requires at clause A2.3(a)(i) identification of all vegetation in all directions from the site for a distance of 140 metres. This has not been done.

In relation to the sixth row of that table, on landscaping, Appendix 5 of the PBP states:

Experience from the Canberra 2003 fires suggests that house losses are greatest in the area up to 250 metres from the bush interface. Distances of less than 100 metres are particularly vulnerable to flame contact, radiant heat and ember attack. Hence it is within this distance that efforts should be made to prepare for the onslaught of major bush fire events.

Distances of 100m from the proposed Dual Occupancy run onto neighbouring properties especially in downhill directions. Areas to the west are steep, forested and inaccessible.

53. At section 4.3.6a) the PBP deals specifically with *Dual occupancy* saying:

In general, dual occupancy should be discouraged in isolated locations with poor access and inadequate water.

Where the erection of a dual occupancy is proposed, it is assumed that the proposal will be subdivided and as such will be assessed as if submitted under section 100B of the RF Act for a BFSA.

The Dual Occupancy proposal in this DA should be discouraged if not rejected. If it is not, then it should at least be assessed "as if submitted under section 100B of the RF Act for a Bush Fire Safety Authority" (BSFA; see Appendix 1 of the PBP).

54. At PDF page 50 of 131 of the DA itself, section 3.8 claims no impact on scenic quality. As I explain at my points 8f and 25, scenic quality from the west is destroyed by the proposed Dual Occupancy building, which should be relocated northwards.

No screening is proposed, or possible, because of slope and because the proposed APZ must be free of tall trees. As outlined at my point 10 above, a tree at the edge of the proposed 50m western APZ would have to be 9m taller than the building to screen it because the gradient of the line of sight from my approved dwelling to the proposed Dual Occupancy is 1 in 5.5 or 10°.

Section 3.8 claims "screen plantings undertaken will minimise this overlooking within a few years". What screen plantings? ... in this APZ? If this building is to remain in its current location, Consent Conditions are required and a substantial bond held until significant trees gain the height needed (roof height plus 9m) to screen the building. An alternative is to relocate the building northwards, out of the line of sight.

55. At PDF page 50 of 131 of the DA, section 3.11 claims that the proposal is in "an area experiencing similar infill development". This is wrong, as I explain at my points 25, 27: (i) there are no Dual Occupancies or second dwellings of any kind approved on this hill; (ii) this DA proposes 7-bedroom accommodation on one of the smallest Lots on the hill, and (iii) it is not low density nor comparable or compatible with development here.

(DD:DD to BSC re DA378, page 11)

These proposals constitute a precedent for similar development on neighbouring Lots, of which there are about a dozen. Doubling the number of dwellings on all these properties will produce a nightmare of road, fire and other safety issues plus conflicts similar to the one I have experienced with the poor siting of the proposed Dual Occupancy building.

The cumulative impacts of that density should be considered before this DA is.

56. The DA claims in section 3.11 that "all development mirrors that of adjacent approved development". This is false and yet another example of complete fabrications in this DA.
57. Likewise, the claims in section 4.2 on Parking and Access are false. There are three access points. They are blind and require reversing out onto the shared *banana road* at a steep and narrow pinch-point known as the S-bend.
58. Likewise, claims in section 4.3 on Traffic are false and understated. The DA proposes an increase from 2-bedroom accommodation to 7- on this property. An increase of 3.5 fold cannot be called "no appreciable increase". The road is not "well designed" and cannot handle this increase, let alone the increase that would occur if all properties had 3.5-fold increase in accommodation. What a white-wash!
59. The on-site sewer design report is defective in that it fails to design for the 5-bedroom (7.5 residents) in the main house. At PDF pages 58 and 74 of 131 the report proposes a self-assigned concession on Nitrogen balance, dropping it from 5-bedroom down to 2-. The disposal area thus proposed is less than half what it should be. My attached OSM spreadsheet model shows the correct calculation.

No basis for this concession is explained nor is it proposed as a request, which would expose the fact of inadequacy of the property to support the infrastructure required.

Correct inclusion of Nitrogen in the Council's own model calculations yields an ETA bed configuration of 6 beds, 18.5m by 2m. This area is 2.7 times more than proposed in the DA (3 beds of 13.8m). The correct area could also be configured as 8 beds of 13.8m, if width is limited at the site. This will however take ring the disposal area closer to the 12m buffer required to the downhill boundary.

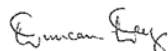
Further concession is sought surreptitiously for the main dwelling by claiming a 5m depth to water table / bedrock. This claim is not made for the Dual Occupancy despite it being in the same soil type. This concession for expediency should likewise be rejected.

When effluent disposal areas are too small as proposed in this DA, nutrients such as Nitrogen and Phosphorus leach into the broader environment and pollute waterways. Here they would leach over the downhill boundary onto Lot 1. The s68 Application for this OSM proposal should be rejected and a new design submitted.

The DA should then be corrected and re-exhibited, so that the public sees:

- (i) that Council takes leaching of nutrients into the environment and over neighbours' boundaries seriously; and
 - (ii) so that the public can see whether this overdevelopment can fit on this small Lot.
60. The stormwater trench proposed in the DA (sketched on PDF page 127) is located in the middle of dam about 3m deep. This is impossible and again illustrates the need to reject this DA and ask for one prepared competently.
 61. I object to the additions proposed for the Dual Occupancy building. Doors and verandas as proposed on the south and west sides of the building would offend my privacy and ruin my view even more than what is there now. If the building is approved in the proposed location, those extra features should not be permitted.

Yours faithfully,



attached: OSM model spreadsheet; photo of site of proposed Dual Occupancy
(DD:DD to BSC re DA378, page 12)

(DD:DD to BSC re DA378, page 13)

PS lack of Council response to my complaint 30.2106.6435.1 of 16 August 2016 allowed construction to continue uninterrupted to completion. Here is the status of the proposed Dual Occupancy building on 7 September 2016:



(DD:DD to BSC re DA378, page 14)

Scott, Noreen

From: Cameron Bell <notguilty@universallaw.com.au>
Sent: Sunday, 26 August 2018 9:11 PM
To: council
Subject: DA 384/2018

RE: Objection in respect of DA 384/2018
183 Coopers West Lane, Main Arm

Submission by: Cameron Bell
137 Coopers Lane, Main Arm

I am grateful for the opportunity to submit an objection in respect of DA 384/2018. I have only just been made aware of this development application by other concerned residents in our vicinity. I note the application documents submitted by Mr Lonergan, Town Planner, being 131 pages in length. Given the direct and significantly detrimental impact of this DA on myself and neighbours, it is imperative that Council be fully appraised of the objections and concerns. In the space of a few hours, I am unable to assess and comment fully on the application, and seek an extension of 14 days in order to properly do so. However, my preliminary concerns are set out below.

Interest in the DA:

Since 2002, I have been the owner and resident of 137 Coopers Lane (Lot 4 DP 540003). My property is a 20 acres freehold title property on the corner of Coopers West Lane and Coopers South Lane.

My northern boundary (approximately 500m) runs along Coopers West Lane, a single lane unsealed gravel road that is not suitable for the traffic flow envisaged by the DA.

In particular, my residence, property and that of my neighbours have been directly and severely impacted by increasing traffic flow over recent years as a result of increased population and developments in the upper areas of Coopers West Lane. This has caused insurmountable problems with dust affecting the amenity of our residences and, likely, at levels dangerous to the health of residents. The dust levels, I am also advised, have a direct detrimental effect on the values of our properties.

Other impacts and issues with the traffic along Coopers West Lane are set out below.

Objections to DA:

I note the following:

1. The development is in an area zoned RU1. Notably, there is nothing in the application submitted by Mr Lonergan that suggests the development in any way complies with the statutory objectives for RU1 Rural Landscape Zone, or any enhancement of the land and area through the proposed development that is consistent with those statutory objectives.
2. Rather, the application submitted to Council intentionally understates the significant impact on the area, in particular as follows:
 - a. The development is for the purposes of increasing the population of, the use of and the frequenting of, a fragile area without the facilities, infrastructure or capacity for such population and use;
 - b. The DA is incorrect and misleading particularly in reference to the impact and generation of traffic. The impact of additional traffic due to the unauthorised development already undertaken on the subject property, and by way of a pattern of other unauthorised developments in the area, have had a direct impact on a number of residences and the roads in the area, as follows:
 - i. There has been a significant increase in traffic along Coopers Lane and Coopers West Lane over recent years. Coopers Lane is a single lane rural bitumen road

- subject to prevalent and more regular deterioration through the increased impact of traffic in the area.
- ii. Coopers West Lane is a single lane unsealed road, the increased use of which has led to insurmountable problems for local residents as follows:
 1. The creation of dust impacting all adjoining properties;
 2. The prevalence of vehicles travelling at excessive and dangerous speeds along Coopers West Lane which not only contributes to the problem of dangerous dust levels but also has led to:
 - a. near accidents with the vehicles of local residents;
 - b. near accidents with local children who use the roads;
 - c. near accidents with livestock;
 - d. increased incidents of the death of native wildlife through impacts with motor vehicles along Coopers Lane and Coopers West Lane.
 3. The writer and others in the area have also been subjected to threats and abuse from road users along Coopers West Lane when requesting they slow down to prevent dust and other issues.
 3. That the DA is in respect of structures recently constructed without any appropriate development application and in contravention of the Environmental Protection and Assessment Act. Subsequently, I understand that a demolition order was imposed by Council that has not been complied with.
 4. The applicants purchased the property in full awareness of the current demolition order.
 5. The developments are in an environmentally sensitive area and the development has already significantly impacted on the area through the unapproved felling of, or interference with, trees and bushland.
 6. As a former member and office bearer of the Main Arm Rural Fire Service, I am aware of the extreme sensitivity to bush fires in the area of the subject application, and note that there have been several fires in the vicinity over recent years at residences on Coopers West Lane that have fortunately been brought under control without spreading to neighbouring properties. However, I also note that the Asset Protection Zone (APZ) necessary for the subject DA requires an area in excess of that available on the property, and the concern of direct neighbours who would be impacted by the APZ.
 7. I submit that, having regard to the development standards for RU1 Rural Landscape Zone pursuant to the provisions of Byron Shire L.E.P 2014 and s.4.15 of the Environmental Planning and Assessment Act:
 - a. the proposed development cannot be supported as it is inconsistent with the relevant plans and policies that apply to agricultural areas zoned RU1;
 - b. it would undermine the relevant rural planning provisions for the area and create an undesirable precedent under the Byron Shire L.E.P;
 - c. the impact on the area is certainly not complying and innocuous, and entails significant public interest concerns give the lack of amenity in the area and impacts of such development initially through unauthorised means.

Cameron Bell
Accredited Specialist Criminal Law
Universal Law



www.universallaw.com.au

Telephone and Fax for *all* offices
T: 02 6684 6111 F: 02 6684 6122

Post for *all* offices to: PO Box 90, Mullumbimby, NSW 2482

Street Addresses:

Suite 6, 97 Stuart Street, **Mullumbimby** NSW 2482

10/69 Wharf Street, **Tweed Heads** NSW 2485

23 Coleman Street, **Lismore** NSW 2480

A.B.N. 17 184 038 743 - *Liability limited by a scheme approved under Professional Standards Legislation.*

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**GM Project Development
and Management**

27 August 2018

The General Manager
Byron Shire Council
PO Box 219
Mullumbimby 2482

Dear Sir

Objection to DA 2018.384 – 183 Coopers Lane West Main Arm.

GM Project Development and Management has been engaged to prepare and lodge an objection to the above DA. I have perused the documentation submitted as part of the DA package.

This objection is based on a number of grounds as follows.

Illegal Building

The previous owner of 183 Coopers Lane West (Lot 2 DP 445771) had been told to stop work (twice??) on the construction of the building that is the subject of the detached dual occupancy component of the DA. Yet the owner did not stop but continued to construct the building, that consequently has had no Planning Approval, no Council inspections and no sign off by Council.

Council cannot accept a DA for a use of the building that Council knows is illegal. If the subject DA is approved, Council is formalising the illegal structure without any 'pre DA' to legalise it. At the very least Council cannot accept the subject DA for the use of an illegal structure but instead must refuse the DA and request an application for the 'formalisation' of the illegal structure via a Building Certificate application or similar before the subject DA is accepted and assessed.

Consideration of the current DA

The Application is accompanied by a paucity of information and provides 'minimalist' comments throughout reflecting the lack of analysis to demonstrate compliance with the applicable LEP Clauses or the DCP's relevant requirements.

I note that Council's Development Application form indicates a SEE must provide the following information ie

- environmental impact of development;

43 Beaumont Drive Lismore NSW 2480
PHONE: 02-6622.1749 MOB: 0428-221749
EMAIL: graham@gmproject.com.au ABN 59047646649

- how the environmental impacts of the development have been identified;
- the steps to be taken to protect the environment or lessen the expected harm to the environment.

In essence the DA fails to supply items required by Council's DA Form or Council's Statement of Environmental Effects Form and fails to demonstrate in word or plan the impacts of the development.

In any assessment, Council must not be limited in its assessment to the facts of the particular DA but must have regard to relevant:

- Objects of the EPA Act;
- Aims of the LEP;
- Objectives of the Zone; and
- Planning Principles

Objects of EPA Act

The relevant objects of this Act are:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

(my underlining)

Aim of the LEP

The relevant Aim of the LEP is:

to minimise conflict between land uses within a zone and adjoining zones and ensure minimal impact of development on the amenity of adjoining and nearby land uses.

(my underlining)

Objectives of the Zone

The DA correctly identifies the proposal is in the RU1 Zone but assesses the proposal in terms of the RU2 Zone's objectives – a clear example of the superficial nature of the DA! This error in itself should be sufficient for Council to refuse the DA as it is based on a false underlying analysis.

43 Beaumont Drive Lismore NSW 2480
 PHONE: 02-6622.1749 MOB: 0428-221749
 EMAIL: graham@gmproject.com.au ABN 59047646649

The relevant objective of the RUI Zone is:

To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality (my underlining)

Comment: There has been no analysis of the impact on the scenic quality other than statements such as 'it is located well below the southern dominant ridgeline and will not be visible from the public road' and 'the visual isolation of the existing building on cleared land...ensures that it blends into the rural character of the area.'

A more rigorous analysis needs to be undertaken re scenic amenity.

Further, the site access (Coopers Lane West) is a narrow rural road in a small rural neighbourhood. All on private built property and no maintenance plan

The proposal fails to demonstrate compliance with the relevant Object of the EPA Act, Aim of the LEP especially having regard to the adverse impact on residential amenity and RFS related access issues.

In addition, merely because a land use is permitted with Council Consent in a zone (ie dual occupancy in the RUI Zone) does not make it a *compatible land use* as per the Zone Objective. The lack of information submitted with the DA does not attempt to justify any compatibility.

Planning for Bushfire Protection 2006 ('PBP')

This document is very specific about the requirements for dual occupancies in rural areas.

Page 45 of PBP clearly states:

In general, dual occupancy should be discouraged in isolated locations with poor access and inadequate water...Where the erection of a dual occupancy is proposed, it is assumed that the proposal will be subdivided and as such will be assessed as if submitted under section 100B of the RF Act for a BFS.

In terms of access, PBP (p22) requires:

all roads are through roads. Dead end roads are not recommended, but if unavoidable, dead ends are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end and direct traffic away from the hazard. (my underlining)

Comment: Coopers Lane West is long with inadequate passing bays and no turning circle. Coopers Lane West is not within a road reserve but is on private land without any agreement by the various land owners to maintain the road.

43 Beaumont Drive Lismore NSW 2480
PHONE: 02-6622.1749 MOB: 0428-221749
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PBP (p13) suggests this application should be refused as;

There may be situations where a combination of poor access, rugged topography, remote location and an inability to provide an adequate APZ would pose an unacceptable bush fire risk, even if the building was constructed in accordance with the strictest construction standards. In these cases, there is a strong argument for refusal of the development application.
(my underlining)

Comment: The property's isolation, the rugged topography of the area and the poor access indicates this DA must be refused. The proposal will pose an unacceptable bushfire risk for owners, occupants and fire fighters.

PBP (p13) further indicates

Neither the RFS nor a council has the power to impose an APZ on an adjoining landowner. Details of the proposed easement and the adjoining owners consent should be submitted with the development application.

Comment: The DA states that a 40m APZ is required to the west (and a 50m APZ exists to the west) - a substantial distance of this APZ is on the neighbouring property and no approach has been made to the land owner. The proposal cannot comply with the APZ and this alone should be reason for refusal.

PBP (p16) states:

The major issues for isolated rural developments arise from the need to protect firefighters as well as residents in less accessible areas. As a result greater emphasis is placed on:

- the provision of safe access/egress to the property so occupants leaving, and firefighters/rescuers accessing the property, can do so in relative safety;*
- the provision of adequate APZs to create an area where occupants and firefighters remaining on site will have a good chance of survival; and*
- water supplies and fire protection systems such as spray systems. In such cases dedicated water supplies may exceed standard requirements.*

Comment: This proposal **cannot** ensure safety of fire fighters or occupants. As stated previously Coopers Lane West is long with inadequate passing bays and no turning circle. Coopers Lane West is not within a road reserve but is on private land without any agreement by the various land owners to maintain the road.

43 Beaumont Drive Lismore NSW 2480
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The RFS Requirements for access roads is illustrated below.

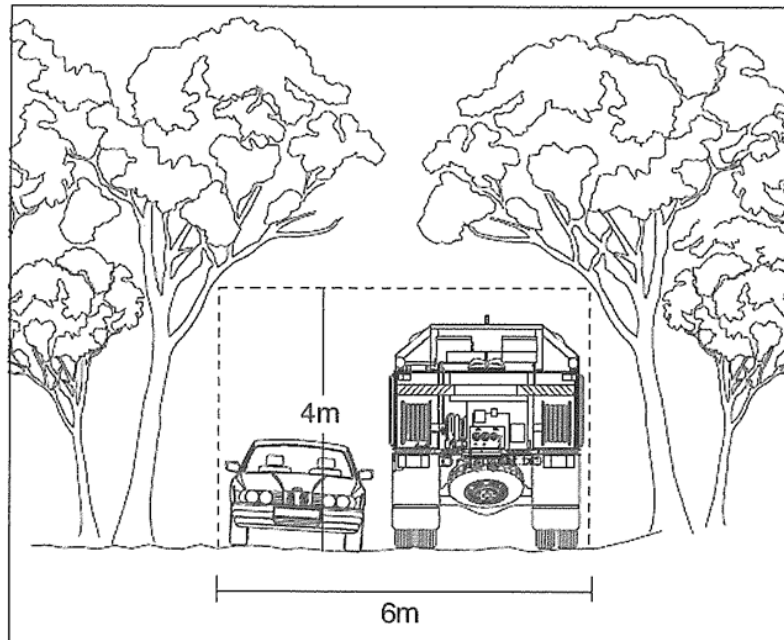


Figure 4.5 Property access road requirements (rural areas)

Comment: Coopers Lane West **does not** comply with this requirement. It is a narrow road, has no passing bays, no turning circle and is located on private property with no maintenance agreement by the landowners through whose property it traverses.

Conclusion

The application does not:

- provide sufficient information to justify the proposed development;
- quantify compliance with Council's previous Orders to stop building;
- assess the application against the correct zone objectives;
- fully explore the impact on scenic amenity;
- appropriately examine the development with respect to RFS requirements; and
- justify compliance with Council's building requirements.

43 Beaumont Drive Lismore NSW 2480
 PHONE: 02-6622.1749 MOB: 0428-221749
 EMAIL: graham@gmproject.com.au ABN 59047646649

The proposal does not:

- o Satisfy the relevant Object of the EPA Act; and
- o Fulfil with the relevant Aim of the LEP;
- o Comply with the relevant Objective of the RU1 Zone; and
- o Conform to the requirements of the RFS.

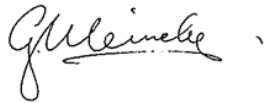
Thus Council cannot:

- approve a use in an illegal building that was previously subject to Orders to stop building;
- support a building in an area that does not comply with the relevant RFS requirements;
- assess the application without full and correct justification being submitted;

Council is thus respectfully requested to **REFUSE** the subject DA for a detached dual occupancy, expanded dwelling and tree removal on the property known as 183 Cooper Lane West.

Thank you for considering this submission and should you wish to discuss this matter please contact me.

Yours sincerely



Graham Meineke

43 Beaumont Drive Lismore NSW 2480
PHONE: 02-6622.1749 MOB: 0428-221749
EMAIL: graham@gmproject.com.au ABN 59047646649

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3 - ATTACHMENT 2



Date: 03/09/2018

DA Submissions Report - Advertising LV2 Close Date from 11/08/2018 to 1/09/2018

DA Number: 10.2018.384.1
Submission Method: ESERVICES

Include Applicant: Yes
Include Parcels: Yes

<u>DA / Submission Type / Number</u>	<u>Date</u>	<u>DA Description / Categories</u>
10.2018.384.1		Use of existing structure as a Dwelling House and Alterations and
Parcel LOT / DP		Property Address
181870 LOT: 2 DP: 445771		183 Coopers West LN MAIN ARM
OPPOSE		
30.2018.13152.1	26/08/2018	Categories: DA OPPOSE
Submission by: Mr C Bell		Submission Method: ESERVICES

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3 - ATTACHMENT 2

DA / Submission Type / Number **Date** **DA Description / Categories**

10.2018.384.1

Parcel LOT / DP

181870 LOT: 2 DP: 445771

Property Address

183 Coopers West LN MAIN ARM

RE: Objection in respect of DA 384/2018 183 Coopers West Lane, Main Arm Submission by: Cameron Bell 137 Coopers Lane, Main Arm I am grateful for the opportunity to submit an objection in respect of DA 384/2018. I have only just been made aware of this development application by other concerned residents in our vicinity. I note the application documents submitted by Mr Loneragan, Town Planner, being 131 pages in length. Given the direct and significantly detrimental impact of this DA on myself and neighbours, it is imperative that Council be fully apprised of the objections and concerns. In the space of a few hours, I am unable to assess and comment fully on the application, and seek an extension of 14 days in order to properly do so. However, my preliminary concerns are set out below. Interest in the DA: Since 2002, I have been the owner and resident of 137 Coopers Lane (Lot 4 DP 540003). My property is a 20 acres freehold title property on the corner of Coopers West Lane and Coopers South Lane. My northern boundary (approximately 500m) runs along Coopers West Lane, a single lane unsealed gravel road that is not suitable for the traffic flow envisaged by the DA. In particular, my residence, property and that of my neighbours have been directly and severely impacted by increasing traffic flow over recent years as a result of increased population and developments in the upper areas of Coopers West Lane. This has caused insurmountable problems with dust affecting the amenity of our residences and, likely, at levels dangerous to the health of residents. The dust levels, I am also advised, have a direct detrimental effect on the values of our properties. Other impacts and issues with the traffic along Coopers West Lane are set out below. Objections to DA: I note the following: 1. The development is in an area zoned RU1. Notably, there is nothing in the application submitted by Mr Loneragan that suggests the development in any way complies with the statutory objectives for RU1 Rural Landscape Zone, or any enhancement of the land and area through the proposed development that is consistent with those statutory objectives. 2. Rather, the applications submitted to Council intentionally understates the significant impact on the area, in particular as follows: a. The development is for the purposes of increasing the population of, the use of and the frequenting of, a fragile area without the facilities, infrastructure or capacity for such population and use; b. The DA is incorrect and misleading particularly in reference to the impact and generation of traffic. The impact of additional traffic due to the unauthorised development already undertaken on the subject property, and by way of a pattern of other unauthorised developments in the area, have had a direct impact on a number of residences and the roads in the area, as follows: i. There has been a significant increase in traffic along Coopers Lane and Coopers West Lane over recent years. Coopers Lane is a single lane rural bitumen road subject to prevalent and more regular deterioration through the increased impact of traffic in the area. ii. Coopers West Lane is a single lane unsealed road, the increased use of which has led to insurmountable problems for local residents as follows: 1. The creation of dust impacting all adjoining properties; 2. The prevalence of vehicles travelling at excessive and dangerous speeds along Coopers West Lane which not only contributes to the problem of dangerous dust levels but also has led to: a. near accidents with the vehicles of local residents; b. near accidents with local children who use the roads; c. near accidents with livestock; d. increased incidents of the death of native wildlife through impacts with motor vehicles along Coopers Lane and Coopers West Lane. 3. The writer and others in the area have also been subjected to threats and abuse from road users along Coopers West Lane when requesting they slow down to prevent dust and other issues. 3. That the DA is in respect of structures recently constructed without any appropriate development application and in contravention of the Environmental Protection and Assessment Act. Subsequently, I understand that a demolition order was imposed by Council that has not been complied with. 4. The applicants purchased the property in full awareness of the current demolition order. 5. The developments are in an environmentally sensitive area and the development has already significantly impacted on the area through the unapproved felling of, or interference with, trees and bushland. 6. As a former member and office bearer of the Main Arm Rural Fire Service, I am aware of the extreme sensitivity to bush fires in the area of the subject application, and note that there have been several fires in the vicinity over recent years at residences on Coopers West Lane that have fortunately been brought under control without spreading to neighbouring properties. However, I also note that the Asset Protection Zone (APZ) necessary for the subject DA requires an area in excess of that available on the property, and the concern of direct neighbours who would be impacted by the APZ. 7. I submit that, having regard to the development standards for RU1 Rural Landscape Zone pursuant to the provisions of Byron Shire L.E.P 2014 and s.4.15 of the Environmental Planning and Assessment Act: a. the proposed development cannot be supported as it is inconsistent with the relevant plans and policies that apply to agricultural areas zoned RU1; b. it would undermine the relevant rural planning provisions for the area and create an undesirable precedent under the Byron Shire L.E.P; c. the impact on the area is certainly not complying and innocuous, and entails significant public interest concerns given the lack of amenity in the area and impacts of such development initially through unauthorised means.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3 - ATTACHMENT 2

<u>DA / Submission Type / Number</u>	<u>Date</u>	<u>DA Description / Categories</u>
10.2018.384.1		Use of existing structure as a Dwelling House and Alterations and
Parcel LOT / DP		Property Address
181870 LOT: 2 DP: 445771		183 Coopers West LN MAIN ARM
30.2018.13193.1	27/08/2018	Categories: DA OPPOSE
Submission Method: ESERVICES		
Submission by: Mr E Willis		
<p>We have only recently become aware of this DA and wish to register our objection to the proposed development. Further to my comments below I would appreciate an extension to the objections deadline in order to fully digest the documents in order to respond more fully to concerns therein. We are resident in the Karu Kali Multiple Occupancy which is slightly over 200 acres which has been our family home since 1981. We have multiple concerns around the development is question. The location of the development is directly in an existing wildlife corridor. Our community land which adjoins this site has a pending designation of EC2 in recognition of its high environment value. We are concerned that the proposed development will negatively impact on the habitat, feeding activities and movement of fragile native wildlife species. The developments are in an environmentally sensitive area which is also has high sensitivity to bush fires. As a current member of the Main Arm Rural Fire Service I am concerned that clearing a protection zone around the dwelling will not be possible. Access is via the unsealed road which runs through our property. We have concerns about the impacts that additional residences represent for road usage. The increased traffic represents a danger to our children when they play outside or when they travel to and from school. Furthermore one of our household has an intellectual disability but routinely walks the road as part of his daily exercise and would be placed in greater jeopardy by increased road traffic. We frequently see cars travelling in excess of 60 Km/h which endangers our children, family, pets and livestock. Additionally, is the issue of the dust which is generated from the road (particularly when vehicles travel at speed) which has significant health impacts for Jane Shand who has COPD. There exists a significant number of illegal second dwellings in this valley at present. We also raise object on the basis we do not wish to see a precedent set that could form undesirable precedent under the Byron Shire L.E.P. undermining the relevant rural planning provisions for the area.</p>		

Total: 2 OPPOSE submissions for DA 10.2018.384.1

***** End of Submissions for DA 10.2018.384.1 *****



t: 02 6687 7461

f: 02 6687 6295

4/57 Ballina Street / PO Box 375
Lennox Head NSW 2478

info@bushfirecertifiers.com.au

www.bushfirecertifiers.com.au

ABN: 95 104 451 210
BCA Check Pty Ltd trading as Bushfire Certifiers

6th June 2019

Byron Shire Council
PO Box 217
BYRON BAY NSW 2478

Dear Sir/Madam,

Subject Development: Lot 2 DP 445771, 183 Coopers Lane West, Main Arm.

Re: Tree Retention in Asset Protection Zone

Ref. D18/6791.

A site inspection was undertaken by this office to assess the location of the six existing Ironbark trees to the northwest of the proposed dual occupancy as identified in the attached asset protection zone plan prepared by Chris Lonergan dated 3rd June 2019 Amendment A.

The assessment found the retention of these trees will not compromise the recommended asset protection zone provided the surface and near surface fuels can be managed as required by Appendix 2 and 5 of Planning for Bushfire Protection 2006.

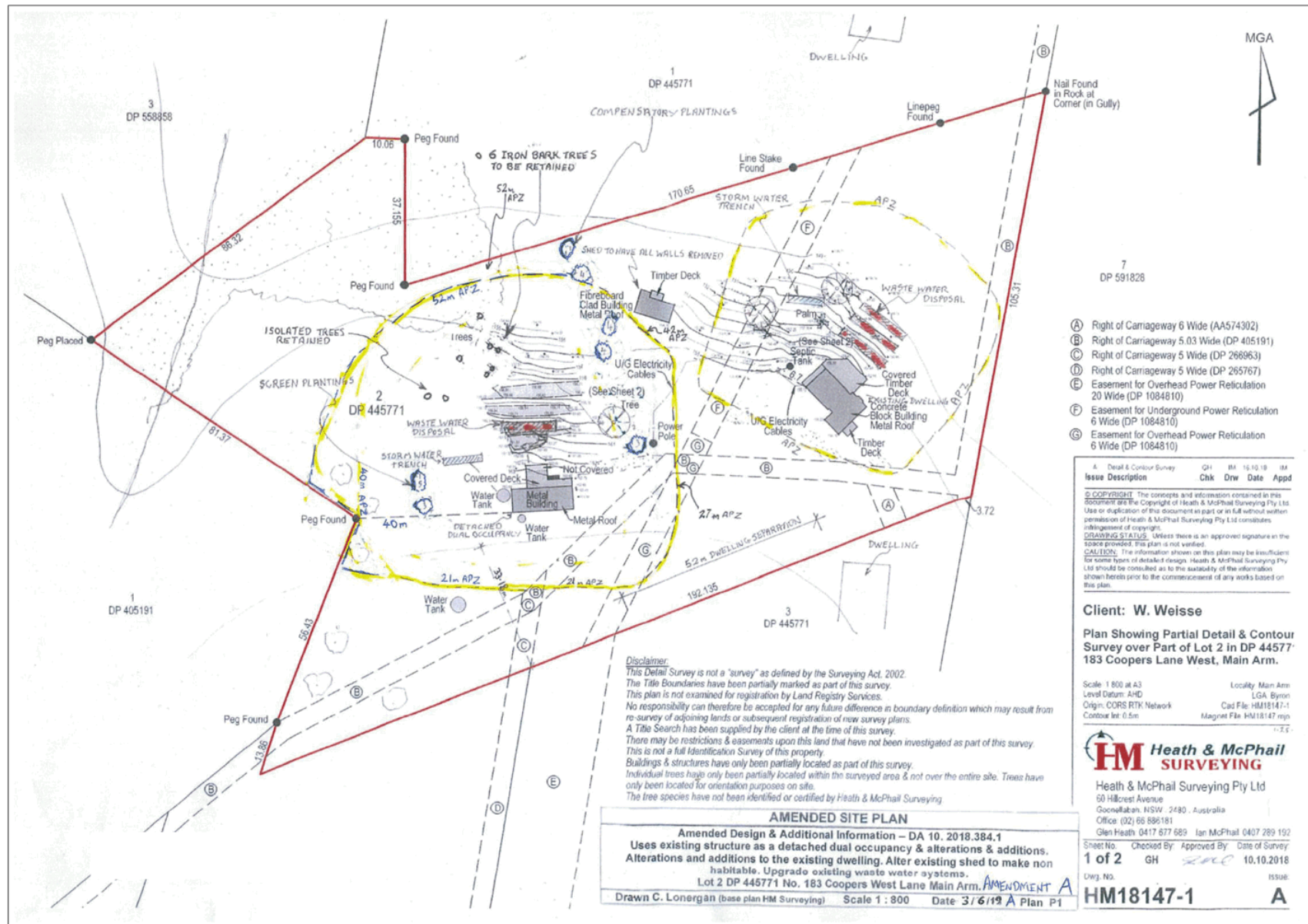
Should you wish to discuss this matter please do not hesitate to contact me on 6687 7461.

Yours faithfully

A handwritten signature in black ink, appearing to read "Peter Thornton".

Peter Thornton
BPAD-L3 Accredited Practitioner No. 14867.

ATTACHMENT



Byron Shire Council
70–90 Station Street, Mullumbimby, NSW 2482

9th December 2019

Subject: DA 10.2018.384.1 183 Coopers West Lane Main Arm

Dear General Manager,
cc: Chris Larkin
cc: Ivan Holland

I would like to follow up on our DA 10.2018.384.1 for use of existing structure as a dwelling house and as a matter of urgency request you put our DA on the agenda for your 12th December 2019 Council meeting. We are very concerned about the severe risk of bush fires in the area and our DA includes a number of bushfire protection measures for ours and neighbouring properties along Coopers West Lane, Main Arm.

At the 20 June 2019 Council planning meeting Council requested additional information on the following matters;

- a. The alignment of right of way through Lot 3 DP558858;
- b. If any further road widening is required on this section of the right of way to satisfy requirements of the Rural Fire Service
- c. The fire assessment to be further considered.

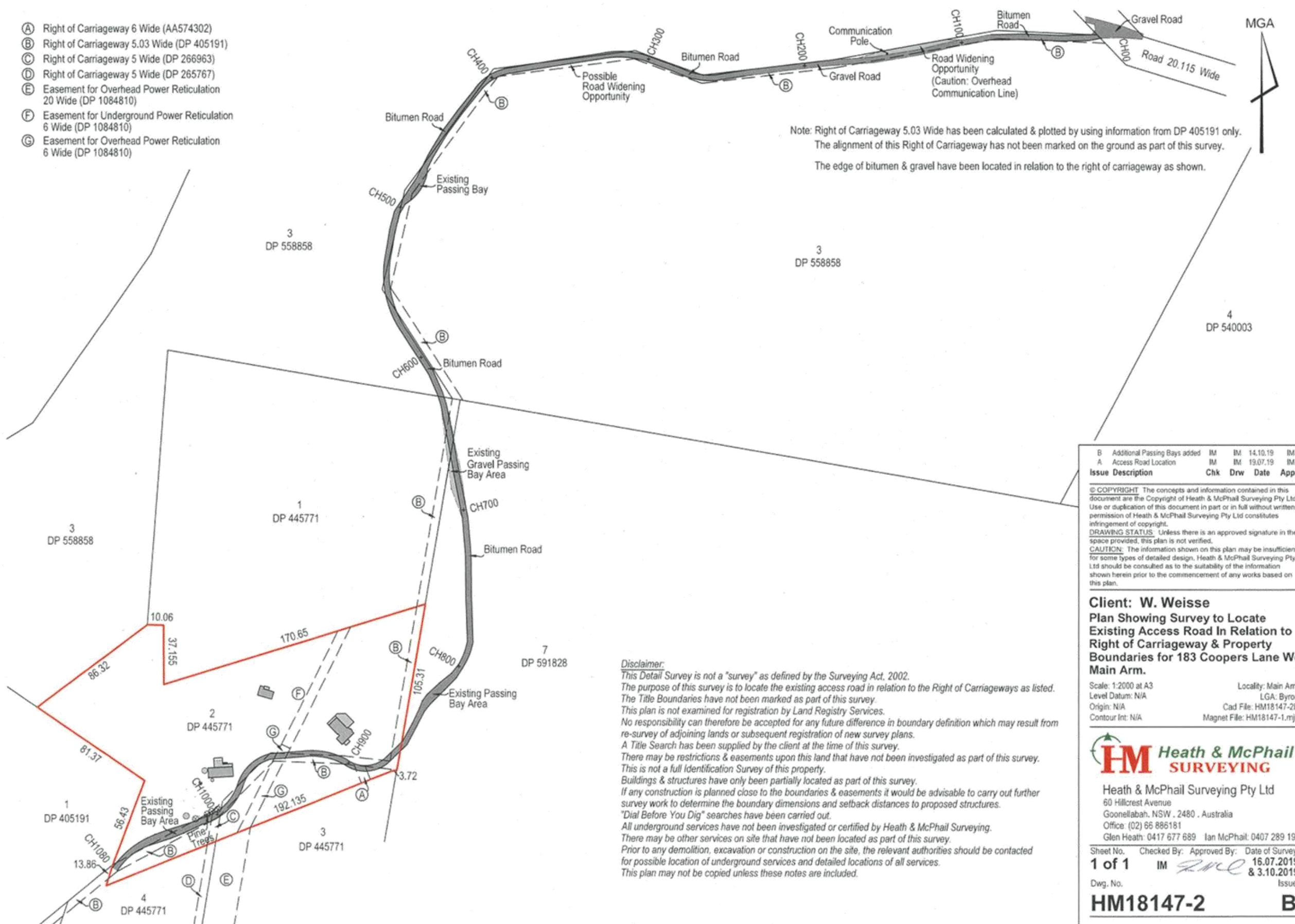
Incompliance with Notification DA 10.2018.384.1 - Planning meeting 20 June 2019 requesting further details, we now wish to provide the following information to satisfy the 3 matters raised.

- a. We commissioned a survey of the access road from Coopers Lane to our property and can confirm the access road that has been in constant use for over 60 years is generally in line with the right of carriageway through Lot 3 DP558858. We sought legal advice on this matter and our Solicitor has provided the options available to address any access road matters. We have communicated this information to the owners of Lot 3 DP558858 and although we have asked several times, by email, we are still awaiting their decision on which option to proceed with.
- b. At the request of the Rural Fire Service and Byron Shire Council we engaged a bush fire consultant (Peter Thornton of BCA Check) to prepare an alternate solution to comply with the performance criteria and addressing any further road widening requirements. The Rural Fire Service, Byron Shire Council and Peter Thornton conducted an on-site assessment of the access road and based on their assessment the Rural Fire Service have updated their determination and advice (dated 3rd December 2019, which you have a copy of) providing for a much safer solution which will minimise the risk of bush fire attack and provide "protection for emergency services personnel, residents and others assisting firefighting activities".

We have obtained written consent from the owners of Lot 1 DP445771 and Lot 7 DP591828 to update the right of carriageway alignment and add passing bays as stipulated by the Rural Fire Service determination.

- c. This revised Rural Fire Service determination addresses the overall bush fire requirements for the access road and our property's APZ thereby satisfying Council's request for further information on the fire assessment.

We have now met all Council requests for the additional information brought up in the June 20 Planning Meeting and are seeking your urgent attention and approval for progressing our DA. With bush fire risks remaining at severe levels it is critical we get DA approval so we can get started with the improvements to



From: [Arne Rubinstein](#)
To: [Holland, Ivan](#); waynew59@gmail.com
Subject: HPE CM: Access and upgrade for Lot 2, DP 445771
Date: Monday, 10 June 2019 3:13:43 PM

Dear Ivan

I/We, the owner(s) of Lot 7, DP 591828, give written approval as the landowner(s) that the right of way traverses to modifying the easement to accommodate the upgraded road (i.e., extra width and passing bays) so that RFS specifications are met and to be consistent with the actual alignment.




The owners of Lot 2, DP 445771 accordingly agree to contribute their fair portion towards the upgrade and any maintenance of the said road on my/our property Lot 7, DP 591828.

Please advise if any additional information is required.

Regards,

Dr Arne Rubinstein

Dr Arne Rubinstein
CEO

 0417 439 689
 arne@ritesofpassageinstitute.org
 www.ritesofpassageinstitute.org



[logoandpromo](#)





Wayne Weisse <waynew59@gmail.com>

Coopers West Lane - Easement

Paul and Courtney <paulandcourtney1@bigpond.com>
To: waynew59@gmail.com

Sun, Dec 8, 2019 at 11:38 AM

We, Paul Robinson and Courtney Hampson the owners of Lot 1, DP445771 give written approval as the landowners that the right of way traverses to modifying the easement to accommodate the existing track in use and existing passing bay marked on the survey HM18147-2B.

If you need anything further, please don't hesitate to contact us.

Paul Robinson and Courtney Hampson
181 Coopers West Lane
Main Arm NSW 2482

McCartney Young Lawyers

Directors: Michelle McCartney | Michael Young | Jonathan Marquet

Our Ref: JM:20190493

10 September 2019

Mr W Weisse
183 Coopers Lane West
MAIN ARM NSW 2482

Dear Wayne

Right of Carriageway – Lot 3 DP 558858

1. Thank you for your instructions in this matter.
2. You and a substantial number of other property owners/occupiers use a formed driveway access from Coopers West Lane across Lot 3 DP 558858 (**Access**), being the property owned by a multiple occupancy community, Karu Kali Pty Ltd (**Burdened Land**).
3. Your land and other properties to the north and south of your land is benefitted by a right of carriageway (**ROC**) over the Burdened Land.
4. The terms of the ROC are not specified in the relevant dealings and accordingly, the standard wording of the *Conveyancing Act 1919* (**Act**).
5. As is common in rural land, the Access has not been constructed in the same alignment as the ROC shown on the relevant plan/s.

Options for the ROC

6. There are a number of options for rectifying the misalignment of the ROC:

a. Forming the Access in line with the ROC

- i. Without limitation, the terms of the ROC provide all ancillary rights necessary to use the ROC. Accordingly, you and any other benefited party are entitled to use machinery to form a new access within the ROC alignment. The permission of Karu Kali is not required prior to carrying out this work.



Suite 10, 31 Cherry St, Ballina | PO Box 183, Ballina, NSW 2478
Phone: 02 6683 5566 | DX 27660 BALLINA | Fax: 02 6683 5544
Email: info@my-lawyers.com.au | Web: www.my-lawyers.com.au
McCartney Young Lawyers Pty Limited incorporated legal practice
ABN: 66 134 784 062



BUSINESS LAW
PROPERTY LAW
LOCAL GOVERNMENT
& PLANNING LAW

b. Creation of new easement by consent

- i. Obtaining the consent of Karu Kali to the creation of a new easement (easement over track in use) will be the simplest and quickest option. This will involve a plan of easement and easement terms being prepared, signing by all parties and lodgement of the plan with NSW Land and Registry Services.

c. Court ordered easement

- i. Section 88K of the *Conveyancing Act* 1919 allows the Court to create an easement by order without the consent of the servient tenement (the party with the burden of the easement). Whilst I would need to consider the issue in more depth, my preliminary view is that there are good prospects of you obtaining an easement under section 88K, having regard to the current use of the Access, history and properties reliant on the access.

d. Prescriptive Easement

- i. Subject to detailed investigation, it may be that there is evidence of use and an arrangement granted before the land became Torrens title. If this was proven, then the easement would be recognised and registered on title.

e. Equitable Easement

- i. The law recognises an "equitable easement" created by acquiescence or estoppel. That is, in circumstances where a party has intentionally granted an easement or induced another party to think that an easement had been granted and then relied to its detriment on that easement, then the Court may enforce (in equity) that easement.

7. As you can see from the above, there are number of options open to you and the other owners to rectify the alignment of the Access.

I am happy to discuss this advice with you, once you have had an opportunity to review and process it.

Yours faithfully



Jonathan Marquet
Solicitor/Director
Direct Line: 6683 5592
jonathan@my-lawyers.com.au



t: 02 6687 7461

f: 02 6687 6295

4/57 Ballina Street / PO Box 375
Lennox Head NSW 2478

info@bushfirecertifiers.com.au

www.bushfirecertifiers.com.au

ABN: 95 104 451 210
BCA Check Pty Ltd trading as Bushfire Certifiers

17th July 2019

Byron Shire Council
PO BOX 217
BYRON BAY NSW 2478

Dear Sir/Madam,

Subject Development: Lot 2 DP 445771, 183 Coopers Lane West, Main Arm.
Re: Bushfire Assessment – Asset Protection Zones and Access
Ref. D18/6791.

I have been requested by the owner of the subject property to respond to a query raised at a Council meeting in relation to the effective slope analysis outlined in our correspondence dated 22nd March 2019.

I attended the site prior to the preparation of the aforementioned correspondence and undertook a thorough inspection of the site, including an effective slope analysis. As outlined in Planning for Bushfire Protection 2006 the effective slope *'is the slope within the hazard which most significantly affects fire behaviour of the site having regard to the vegetation class found'*. As detailed in our previous correspondence which was accepted by NSW Rural Fire Service following consultation and ultimately in the preparation of final reporting, the gully had been taken into account in the assessment of effective slope.

The slope directly into the gully, the orientation of the gully and the relationship to the asset (dwelling) was specifically assessed and discounted as having the most influence the forecast bushfire behaviour. A knowledge of fire behaviour and in particular acceleration and deceleration of rate of spread in forest fires through slope transitions is required to determine the slope that will most influence the bushfire behaviour. This has been demonstrated in the aforementioned correspondence and concurred with by NSW RFS. It is noted this assessment is also consistent with the NSW RFS methodology in the initial response dated 22nd November 2018.

Page 1 of 2



t: 02 6687 7461

f: 02 6687 6295

4/57 Ballina Street / PO Box 375
Lennox Head NSW 2478

info@bushfirecertifiers.com.au

www.bushfirecertifiers.com.au

ABN: 95 104 451 210
BCA Check Pty Ltd trading as Bushfire Certifiers

BUSH FIRE ASSESSMENT REPORT

Lot 2 DP 445771

183 Coopers Lane West, Main Arm

Proposed Dual Occupancy (s4.14)

Prepared for: Wayne Weisse

Prepared by: Peter Thornton

BPAD-L3 Accredited Practitioner

Date: 14 October 2019

Ref: 19/300

BCA Check Pty Ltd
 t/as Bushfire Certifiers
 4/57 Ballina Street Lennox Head NSW 2478 Australia
 (PO Box 375 LENNOX HEAD NSW 2478)

ABN 95104451210
 T: 02 66877461
 F: 02 66876295
 E: bcacheck@bigpond.com



Peter Thornton MFireSafeEng
 BPAD-L3 Accredited Practitioner No. 14867
 Building Surveyor MAIBS



Revision	Date	Description	Prepared	Authorised
-	24.08.2019	NSW RFS Brief	Peter Thornton	Peter Thornton
A	14.10.2019	Final report	Peter Thornton	Peter Thornton

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1.0 EXECUTIVE SUMMARY

This bushfire assessment report has been prepared to assess the proposed conversion of an existing structure to a Class 1a dwelling to create a dual occupancy at Lot 2 DP 445771, 183 Coopers Lane West, Main Arm against the requirements of s4.14 of the *Environmental Planning and Assessment Act 1979* and Planning for Bushfire Protection, 2006.

The report establishes that the proposed change of use is capable of complying with the residential infill requirements of Planning for Bushfire Protection 2006. In this regard s4.3.5 PBP2006 states:

The expectation of building or altering a house is recognized even though the ability to provide for APZ's or access requirements now required for residential development may not be possible.

The report establishes with the intent of 'infill' development and demonstrates a better bushfire outcome will be created than if the development did not proceed given the existing development does not have any specific bushfire protection measures. In this regard the recommendations will allow for –

- The inclusion of APZs around the existing dwelling and the proposed dual occupancy;
- An accessible static water supply for both buildings and a fire fighter pump and hose;
- Ember upgrade for the existing dwelling and BAL 29 upgraded construction for the dual occupancy;
- A turning bay adjacent to the water supply for the proposed dual occupancy;
- Three passing bays to be included on the existing property access road with the easement re-aligned over the carriage way and nominated passing bays;
- Emergency evacuation planning.

The following table is provided as a summary of the recommendations and method of assessment for each consideration relating to Planning for Bushfire Protection 2006.

MEASURE	RECOMMENDATION	METHOD OF ASSESSMENT
Construction Standards	Dual Occ - BAL 29 AS 3959-2009 + Appx. 3 ADD PBP 2006. Existing Dwelling – Ember protection upgrade.	Acceptable/Performance Solution Upgrade Measure
APZ Required	See recommendations	Acceptable/Performance Solution Upgrade measure
Water Supply	Dual Occ – 10 000 litre non-combustible tank. Existing Dwelling – 20 000 litre non-combustible tank	Acceptable Solution Upgrade Measure
Electricity Supply	New electricity supply in accordance with s4.1.3 PBP2006	Acceptable Solution
Gas Supply	Gas supply to comply with PBP2006.	Acceptable Solution
Landscape	Landscaping is to comply with Appendix 5 of PBP2006	Acceptable Solution
Access	See recommendation	Upgrade Measure

It is recommended that development consent be granted subject to the following conditions.

1. The proposed dual occupancy is to be constructed to BAL 29 AS 3959-2009 + Appendix 3 Addendum PBP 2006. The existing dwelling is to be provided with ember protection by screening openable windows, draft excluders to external hinge doors and screen any external vents.
2. At the commencement of works and in perpetuity the dual occupancy requires an APZ for a distance of 52 metres to the north, northwest and west or to the property boundary whichever the lesser, 21m to the south and extended to include the concrete water supply tank and turning area, 27m to the east, and 42m to the northeast as shown on the APZ plan prepared by Chris Lonergan Amendment B dated 18/7/2019 (see **attached** Appendix A).

The APZ is to be managed and maintained as an Inner Protection Area (IPA) to prevent the spread of a fire towards the building in accordance with the requirements of Standards for Asset Protection Zones (RFS 2005) (**attached** Appendix D). It is noted the 6 iron bark trees identified on plans are permitted to remain within the asset protection zone. It is also recommended permanent markers be provided on site identifying the extent of the APZ but in particular to the west, northwest and north of the second dwelling to further assist in ensuring these areas are managed in perpetuity.

3. At the commencement of works and in perpetuity the existing dwelling requires an APZ for a distance of 40 metres to the north and northeast, 21m to the east and west, and 10m to the south and southwest as shown on the APZ plan prepared by Chris Lonergan Amendment B dated 18/7/2019 (see **attached** Appendix A). The APZ is to be managed and maintained as an Inner Protection Area (IPA) to prevent the spread of a fire towards the building in accordance with the requirements of Standards for Asset Protection Zones (RFS 2005) (**attached** Appendix D).
4. Landscaping within the recommended APZs is to be undertaken in accordance Appendix 5 of Planning for Bushfire Protection 2006 and managed and maintained in perpetuity.
5. A 10 000 litre water supply and RFS connection to a non-combustible water tank is to provide coverage of the proposed dual occupancy dwelling including other conditions detailed in Section 6.1 of this report. A 20 000 litre static water supply is to be provided to the existing dwelling.
6. A turning head is to be provided adjacent to the dual occupancy complying with Figure 3.5 Draft PBP2018 (see **attached** Appendix C). A passing bay complying with s4.1.3(2) PBP2006 is to be provided from the internal property access road within the subject property (see **attached** Appendix B) and adjacent to the concrete tank identified for static fire-fighting supply for the proposed dual occupancy building.
7. The right-of-way is to be re-aligned over the existing property access road within the subject property, Lot 1 DP 445771 and Lot 7 DP 591828 and is to include the proposed/existing passing bays (on the aforementioned properties) as identified on the survey plan prepared by Heath & McPhail Surveying Pty Ltd, Drawing No. HM18147-2, Issue B dated 14th October 2019 (see **attached** Appendix A). The road widening opportunity within the existing easement in the vicinity of chainage 120 as identified in the survey plan is not to extend beyond the communications cable located 3-4m above ground level.
8. New electricity and gas supplies are to comply with section 4.1.3 of Planning for Bushfire Protection 2006.
9. It is recommended that the property owner and occupants familiarise themselves with the relevant bushfire preparation and survival information located on the NSW Rural Fire Service website. This website should be accessed periodically to ensure the property owner and occupants are aware of the latest information. The RFS website is www.rfs.nsw.gov.au.

2.0 INTRODUCTION

2.1 GENERAL

The purpose of this report is to establish suitable bushfire mitigation measures for the proposed conversion of an existing structure to a Class 1a dwelling to create a dual occupancy at Lot 2 DP 445771, 183 Coopers Lane West, Main Arm in order for Council to make determination of the proposed development pursuant to the requirements of s4.14 of the *Environmental Planning and Assessment Act 1979*.

The report prepared by this office dated 27th March 2019 primarily was provided as a response to Byron Shire Council's email to Chris Lonergan, which in part requested –

A Level 3 accredited Bushfire Consultant is to be engaged to find an 'alternate solution' to enable a reduction in the extent of the APZ so that it is fully within the property boundaries and does not require removal of the 6 Iron Bark trees. Depending on the outcome of the Bushfire Report, an ecological report may need to be provided. However, at this point this is not requested. It is recommended that the Bushfire Consultant liaise with Council's Ecologist.

The report was referred to the NSW RFS for advice and was concurred with. The report was considered as additional information to the existing development application currently being assessed by Byron Shire Council.

Whilst on site it was observed that the slope analysis in the initial bushfire report prepared by the Chris Lonergan as part of the statement of environmental effects and reflected in the NSW RFS advice dated 22nd November 2019 did not reflect the slope most likely to influence the bushfire behaviour having regard to radiant heat received by the proposed dual occupancy (2nd dwelling). The NSW RFS advice dated 9th May 2019 rectified the asset protection zones for compliance with PBP2006 (see **attached** Appendix E).

The internal access was also raised by Byron Shire Council as an issue to be addressed which was not part of the BCA Check Pty Ltd's initial scope of reporting. This item was being addressed by the consultant Town Planner Chris Lonergan however the owners have now requested this office to liaise with NSW RFS and provide any subsequent reporting. A bushfire design brief dated 24th August 2019 was prepared for NSW RFS in relation to this final report. A subsequent on-site meeting was undertaken on 24th September 2019 with Alan Bawden (NSW RFS), Angela Daly (NSW RFS), Chris Larkin (Byron Shire Council), Ivan Holland (Byron Shire Council) and Peter Thornton (BCA Check Pty Ltd) to assess the access and discuss other bushfire protection measures.

The NSW RFS concurred with the brief in an email response on the 26th September 2019 with the following request –

With respect to the attached draft bush fire brief and as discussed yesterday, the NSW RFS requires the ROW survey plan to be updated to reflect the agreed property access outcomes.

The plan shall include:

*Road widening opportunities within the ROW at approx. 120 metre chainage, adjacent to the road width constriction generated by an overhead wiring telecommunication pole;
Road widening opportunity within the ROW between the 300 and 400 metre chainage
Re-alignment of the ROW to the constructed road alignment within lot 1 and 2 DP 445771, including a minimum 6 metre ROW width to accommodate proposed passing bays at 640, 850 and 1050 metre chainage.*

Proposed turning head within lot 2 to provide access to the proposed firefighting water supply.

This report is now to be considered as a holistic bushfire assessment report for the development application rather than addressing part of the Bushfire Protection Measures. The report addresses the NSW RFS access request and is considered to be consistent with all discussions during the consultation phase of this assessment.

The recommendations within this report address the aims and objectives of Planning for Bushfire Protection 2006 to reduce the risk of ignition of the building in a bushfire event. It is noted however that bushfire is a natural phenomenon and there can never be any guarantee that a building or occupants will not be adversely affected by bushfire.

2.2 SIGNIFICANT ENVIRONMENTAL FEATURES

An assessment is to be undertaken, if applicable, with regard to:

- State Environmental Planning Policy No. 44 (Koala Habitat Protection)
- Biodiversity Conservation Act 2016 (NSW)
- Local Land Services Act 2013 (NSW)
- Land Management (Native Vegetation) Code 2017 (NSW)
- National Parks and Wildlife Act 1974 (NSW)
- Environmental Protection and Biodiversity Conservation Act 1999 (Cwlth)

This report is not to be considered as having assessed the above legislation. In this regard this report should be read in conjunction with the Statement of Environmental Effects submitted with the development application.

2.3 REPORT DETAILS

Report Reference No.:	19/300
Property Address:	Lot 2 DP 445771, 183 Coopers Lane West, Main Arm
Local Government Area:	Byron Shire Council
Proposal:	Conversion of an existing structure to a Class 1a dwelling to create a dual occupancy
Drawings:	Attached in Appendix A
Report Prepared By:	Peter Thornton MFireSafeEng Building Surveyor (MAIBS) BPAD – L3 Accredited Practitioner

3.0 PROPOSED DEVELOPMENT

The applicant is proposing to convert an existing structure to a Class 1a dwelling to create a dual occupancy at Lot 2 DP 445771, 183 Coopers Lane West, Main Arm as shown on the site plan in Figure 1. Access to the development is via an existing property access road that services quite a number of dwellings, it being noted the existing formation is not wholly within the 5m wide right of way shown on linen plans.

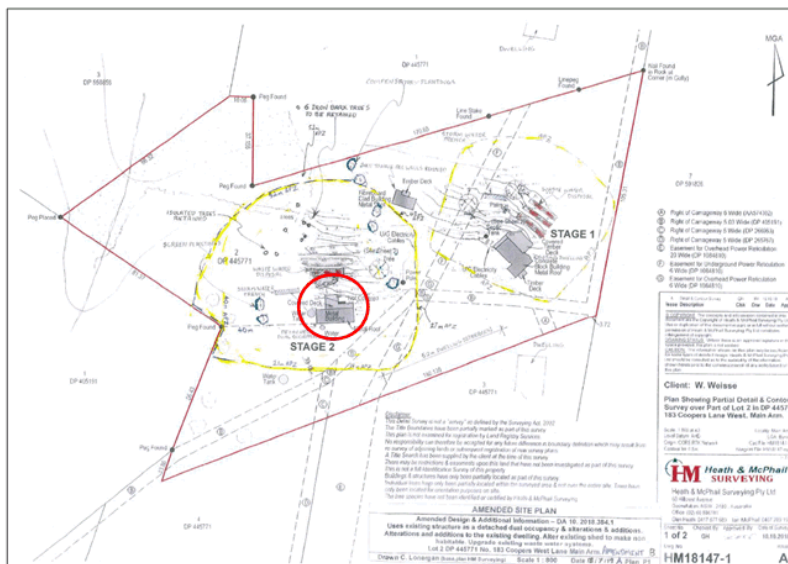


Figure 1: Site plan showing location of existing structure to be converted to a dwelling (red circle). Larger image in Appendix A.

4.0 BUSHFIRE THREAT ASSESSMENT – ASSET PROTECTION ZONES & CONSTRUCTION STANDARDS

Reference is made to NSW Rural Fire Service Correspondence dated 22 November 2018, Ref. D18/6791, relating to the proposed use of the existing building as a dual occupancy dwelling. Item 2 of the RFS correspondence relates to the asset protection zone to the west of the building states:

At the commencement of building works and in perpetuity, the property around the 2nd dwelling (detached) shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':

- *north for a distance of 40 metres as an asset protection zone;*
- *south for a distance of 20 metres as an asset protection zone;*
- *east for a distance of 20 metres or to the property boundary as an asset protection zone; and*
- *west for a distance of 50 metres as an asset protection zone (APZ).*

(Note: in forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.)

A site inspection was undertaken by this office and determined the hazard as forest vegetation with the slope analysis in each direction as outlined in Table 1 below. In this regard an analysis of the 'effective slope' based on bushfire behaviour was specifically undertaken. As outlined in Planning for Bushfire Protection 2006 the effective slope *'is the slope within the hazard which most significantly affects fire behaviour of the site having regard to the vegetation class found'*. As detailed in our previous correspondence to Council dated 22nd March 2019, accepted by NSW Rural Fire Service following consultation, the gully and landform to the west and northwest had been taken into account in the assessment of effective slope together with the varying slopes throughout these areas.

The slope directly into the gully, the orientation of the gully and the relationship to the asset (dwelling) was specifically assessed in relation to effective slope and forecast bushfire behaviour. A qualification of fire behaviour and in particular acceleration and deceleration of rate of spread in forest fires through slope transitions was utilised to determine the slope that will most influence the bushfire behaviour. Further, the varying slopes to the northwest in relation to the ratio of a 100m fire front and fire runs was also considered. This has been demonstrated in the aforementioned correspondence, consultations and concurred with by NSW RFS, including a site inspection.

The inspection identified varying slopes (in the context of the receiver) to the west and northwest to the gully which ranged from approximately 10 degrees to 30+ degrees (dropping directly into the gully over a short distance). It was considered both extremes would not be the most likely slope to influence the bushfire behaviour.

The location of the very steep slopes dropping into the gully were over a very short distance, further from the APZ interface, and within the zone where the acceleration phase of the slope transition from the steep upslope to the west/northwest of the gully would occur. The approximate 10 degrees side-slope further to the north, northwest whilst occurring in part of the fire front interface was considered, as was the narrow area of steeper slopes to the northwest. The range of slopes were considered to both underestimate and overestimate the forecast fire behaviour based on a 100m wide fire front.

There was a narrow section of approximately 23 degree downslope which made up approximately a 15-20m width of the fire front at the hazard interface over a short fire run from a slope transition perspective. This slope was located between two minor gullies feeding the main gully with slopes either side not directed to the receiver. Modelling this slope with a 20m fire front with the recommended 52m APZ would emit approximately 22kW/m². In this regard the assessment determined the 52m APZ derived from the 15-20 degree range pursuant to Table 2.4.3 AS 3959-2009 would create a setback which would be more in line with the bushfire behaviour over varying downslopes and side-slopes, notwithstanding tangential fire fronts, flanking fires and slope transitions and the associated acceleration phases. It is noted this takes into account a conservative 100m wide fire front.

Further consideration was given to the desktop review undertaken which identified the 10m contours using Department of Lands Six Viewer. The 10m contours which are permitted by Planning for Bushfire Protection 2006 A2.3(b) to be used to determine slope, identified the slope to the northwest in particular being in the general range of 15-20 degrees downslope.

The assessment not only complies with Planning for Bushfire Protection 2006 but has included a number of redundancies in the assessment such as the use of higher fuel loadings than required by Draft Planning for Bushfire Protection 2018, and a 100m fire front parallel to the receiver rather than a tangential fire front.

It is also noted, using the 10m contours as permitted by Planning for Bushfire Protection 2006 also arrives at a slope analysis at just under 20 degrees as shown in Figure 2.

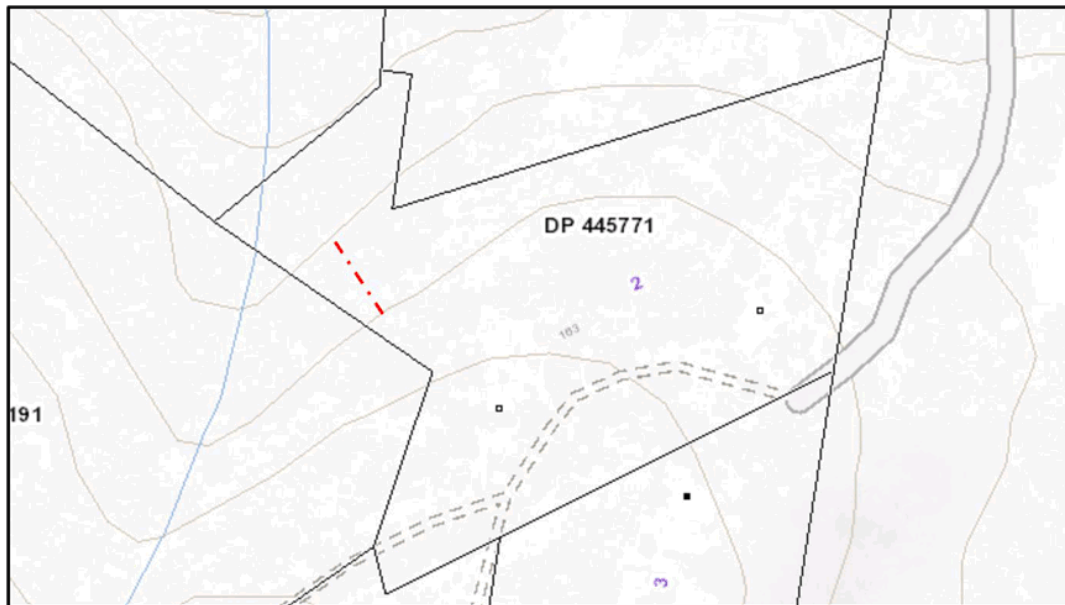


Figure 2: 10m contours to the northwest is approximately 34.5% (19 degrees) gradient.

Using Method 2 AS 3959-2009 on the steeper slopes at the APZ/hazard interface with a rate of spread over a slope exceeding 20 degrees having a 100m parallel fire front would not be reflective of the conditions on site and forecast fire behaviour. In this regard a qualification and a degree of quantification was undertaken in conjunction with discussions with NSW RFS to determine an acceptable slope analysis to establish the asset protection zones to meet the RFS criteria for a maximum radiant heat flux to the receiver of 29kW/m².

In this regard the asset protection zones required to achieve a BAL 29 rating pursuant AS 3959-2009 will not be consistent with the APZ distances outlined in the NSW RFS correspondence and in fact are increased to the northwest.

Table 1: Summary Bushfire Threat Assessment, APZs & Construction Standards

ASPECT	SLOPE	VEG. CLASS	APZ Available	APZ REQUIRED	CONSTRUCTION AS 3959-2009
North/NW/ West	15-20° d/s*	Forest	West – 40m	52m (or to property boundary whichever is the lesser).	BAL 29
Northeast	10-15° d/s	Forest	42m	42m	BAL 29
South, Southwest	upslope	Forest	21m	21m	BAL 29
East	0-5° d/s	Forest	27m	27m	BAL 29

d/s* = downslope as qualified

As shown in the attached survey plan, the proposed dual occupancy dwelling is located 40.1 metres from the closest boundary point to the west, meaning the required 52 metre asset protection zone in this direction cannot be achieved within the subject property boundary.



Figure 3: Aerial map showing existing building to be used as a secondary dwelling.

Note – cadastre boundary overlay is not accurate. d/s* = as qualified.

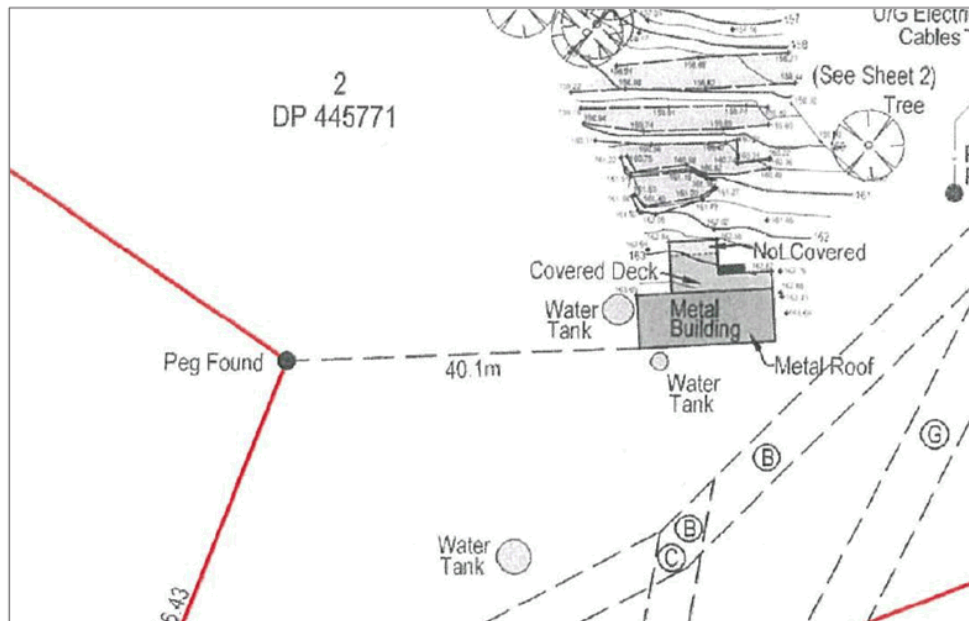


Figure 4: Part survey plan showing 40.1m distance from building to closest boundary point.

It is noted the 40m distance from the dwelling is measured to a single point of the boundary which then angles away to the northwest where the downslope occurs and the 52m is required. To the southwest the terrain is upslope requiring a 21m APZ which can be achieved. Therefore, the 52m APZ is only required to the west, northwest and north of the existing building. In turn, a fire front from the west at the distance of 40m will have a fire front which would diminish to less than 1m at the APZ/bushfire hazard interface due to the angle of the boundary. This is not reflective of a 100m wide fire front which is the Method 1 AS 3959-2009 input establishing the 52m APZ.

It is therefore considered meritorious to apply Method 2 AS 3959-2009 calculation to adjust the fire front accordingly. As shown in the attachment the Method 2 modelling using a conservative 10m wide fire front at a distance of 40m establishes a radiant heat output of 15.63kW/m^2 with a flame length of 58.22m. Whilst it is noted the flame length is approximately 58m, consideration has been given to the definition in Draft PBP2018 which defines flame zone as applicable when radiant heat levels exceed 40kW/m^2 rather than relating to flame length. In turn, the secondary dwelling will not be within the flame zone.

As a further redundancy, the likely bushfire behaviour from this direction has also been considered. As shown in Figure 5 the topography to the west has a downslope for a short distance to the point where it feeds into a gully and the terrain continues upslope.

In many cases a bushfire will traverse the gully given it will become the predominant downslope and have the most fuel availability. Should the bushfire traverse from the west/northwest the fire would have a lower rate of spread traversing from the west side of the gully and would take a reasonable distance and time to accelerate through the slope transition of the east side of the gully to reach full intensity.

The fire run on the east side of the gully to the subject property boundary is approximately 50m which is not considered sufficient distance for the rate of spread to transition to 100% intensity for a 20 degree downslope forest fire. These aspects provide further reasonable redundancy to the modelling.

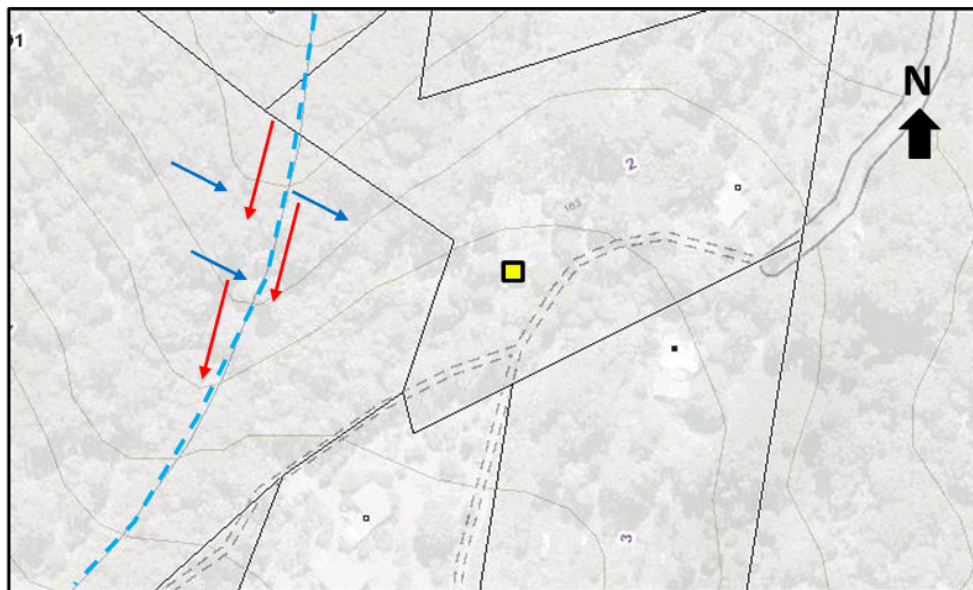


Figure 5: Red arrows - likely location of bushfire following the gully. Blue arrows – rate of spread from upslope to short fire run of the eastern downslope.

Having regard to the particular site circumstances, the existing building will achieve compliant asset protection zone widths to allow the building to be upgraded to BAL 29 plus the Addendum to Appendix 3 PBP2006. Based on this assessment the proposal to convert the existing structure to a secondary dwelling has merit as infill development.

As outlined in our correspondence to Byron Shire Council dated 6th June 2019, the six existing Ironbark trees to the northwest of the proposed dual occupancy as identified in the attached asset protection zone plan prepared by Chris Lonergan Amendment B dated 18/7/2019 (see Figure 6) will not require removal.

The assessment found the retention of these trees will not compromise the recommended asset protection zone provided the surface and near surface fuels can be managed as required by Appendix 2 and 5 of Planning for Bushfire Protection 2006.

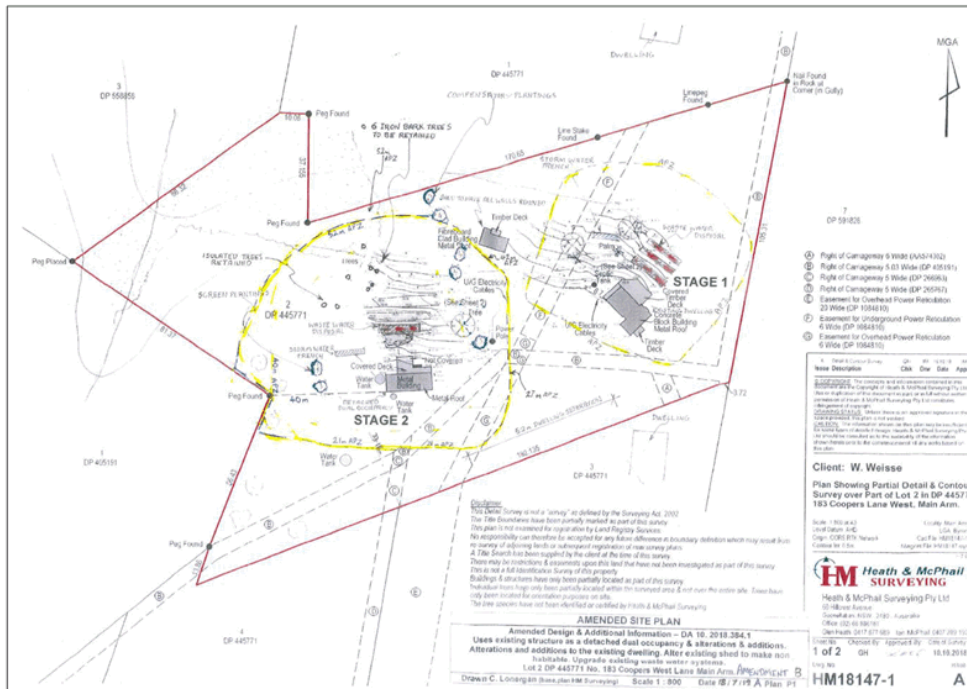


Figure 6: Asset protection zone plan prepared by Chris Lonergan Amendment B, 18/7/2019

5.0 WATER AND UTILITY SERVICES

5.1 WATER SERVICES

A 10 000 litre static water supply is required for the dual occupancy dwelling. A 65mm Storz outlet with a ball or gate valve is generally required to the 10 000 litre water supply with a hardstand area located within 4m of the water tank to accommodate a fire fighting appliance. The water tank must be non-combustible.

The static water supply is to be accessible for the fire fighting personnel and in this regard fire brigade vehicles would need to be able to reverse into the hardstand area. It is generally preferable to ensure that the water storage is located close to the access driveway and adequately marked or identified. The outlet is to be within 70 metres of the furthest part of the building.

A SWS - Stored Water Supply sign is to be attached to the front gate or in that proximity.

If an underground tank is proposed the same requirements apply however an access hole of a minimum 200mm diameter and the hardstand area within 4m of the water tank should be provided. If the water is to be piped from the storage supplies to an outlet then the pipes need to be metal pipes below ground and designed by a hydraulic consultant to ensure protection and adequacy for suction.

A minimum 5hp or 3kW petrol or diesel powered portable pump shall be made available to the water supply for both dwellings with a 19mm (internal diameter) or 25mm (internal diameter) for use in preparation to a bushfire event if it is safe to do so or if early evacuation is not required.

The existing concrete tank to the southwest of the dwelling is considered satisfactory for the static supply for fire-fighting purposes. The required turning head as outlined in Section 7 of this report is to be located adjacent to the supply.



Existing concrete water tank for the dual occupancy with a proposed turning head adjacent.

5.2 ELECTRICITY SERVICES

New electrical transmission lines if required are to comply with s4.1.3 Planning for Bushfire Protection, 2006.

5.3 GAS SERVICES

The following aspects will require consideration should a gas service be considered:

- Reticulated or bottled gas installed and maintained in accordance with AS 1596 with metal piping used.
- Fixed gas cylinders to be kept clear of flammable material by a distance of 10m and shielded on the hazard side of the installation.
- Gas cylinders close to the dwelling are to have the release valves directed away from the building and at least 2m from flammable material with connections to and from the gas cylinder being of metal.
- Polymer sheathed flexible gas supply lines to gas meters adjacent to the building is not used.

6.0 ACCESS

It is acknowledged that the access utilized by a number of properties with existing dwellings is via an existing property access road that is not wholly within the right-of-way as shown on the linen plans for these properties. The existing carriageway has been utilized for a significant number of years as is currently the case.

The existing carriageway does not fully comply with the acceptable solution of Section 4.1.3(2) of Planning for Bushfire Protection 2006, most notably passing bays with a total width of 6m are not provided every 200m and there is only one access/egress road accessing existing dwellings greater than 200m from the public road system.

The location of the existing carriageway is identified in the plan (Figure 7) prepared by Heath and McPhaill Surveying Pty Ltd.

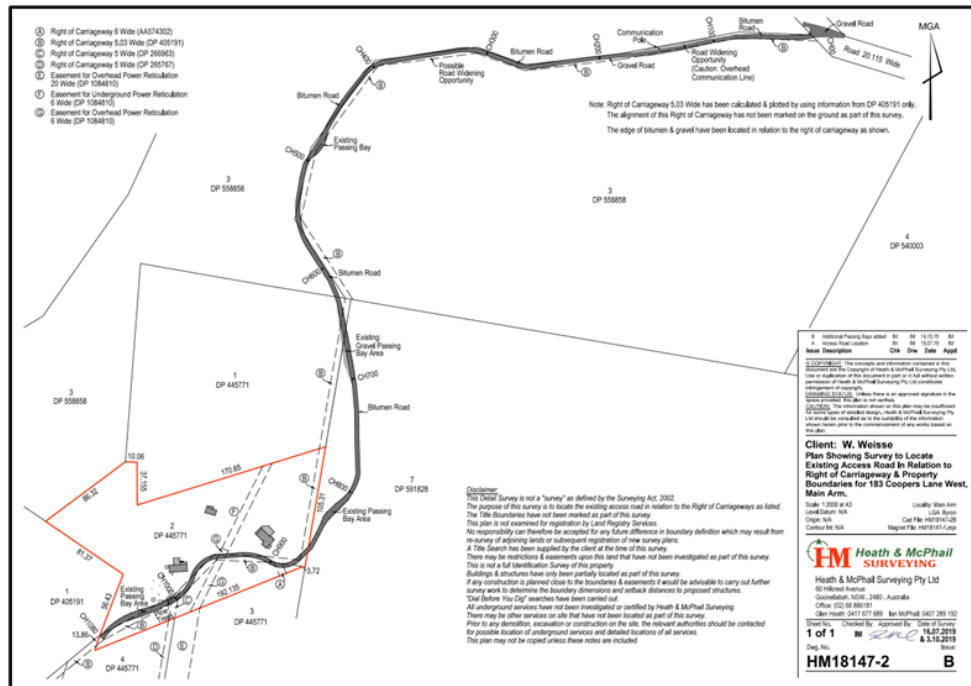


Figure 7: Location of the existing property access road and proposed/existing passing bays over Lot 1, 2 and 7 and some widening in the existing easement within Lot 3.

The proposed development is classified as infill development as agreed by NSW RFS in their email correspondence to this office dated 2nd August 2019. The existing property access will be in use whether this application is approved or not. An assessment found the access, whilst not compliant, to be in a reasonable condition in that it will be predominantly sealed with an unobstructed width of 4m along the majority of the road with some areas available for passing as shown in the following photographs and identified in Figure 7.

For infill development it is acknowledged that existing circumstances may not allow for full compliance with Planning for Bushfire Protection 2006, however a better outcome being provided than if the development did not proceed is a key objective of PBP2006 in order to support an application. In this regard the recommendations in this report will provide a better bushfire outcome not only for the subject property but for fire-fighters and other properties further west being accessed via the existing property access road.

A site inspection with NSW RFS was undertaken on 24th September 2019 where recommendations were made to ensure a better outcome for the property from a bushfire perspective for infill development.



Photo 1 - Sealed road having a 4m unobstructed width in the majority of areas.



Photo 2 – Existing sealed internal property access road.



Photo 3 - Existing sealed passing bays are currently in use.
Sealed internal property access road.



Photo 4 - Sealed internal property access road.



Photo 5 - Sealed internal property access road.

The development has been assessed against s4.3.2 of Planning for Bushfire Protection 2006 'Special Objectives for infill' as follows:

Ensure that the bush fire risk to adjoining lands is not increased

A recommendation for a condition of consent has been provided requiring an asset protection zone around the existing dwelling and the proposed dual occupancy dwelling, it being noted that the 6 ironbark trees required by Council for retention can remain within the recommended APZ. This recommendation together with a more bushfire resilient building will, by implementing asset protection zones decrease the overall fuel loadings within the subject property and therefore reduce the bushfire risk to adjoining properties than if the development did not proceed.

Provide a minimum defensible space

The recommended asset protection zones will provide a defensible space around the subject dual occupancy and the existing approved dwelling.

Provide better bush fire protection, on a re-development site, than the existing situation. This should not result in new works being exposed to greater risk than an existing building.

The following have been recommended and will provide for a better bushfire outcome than if the development did not proceed, it being noted the existing dwelling on property has no specific bushfire protection measures.

- A recommendation for a condition of consent has been provided requiring the have an asset protection zone around the existing dwelling and the proposed dual occupancy.
- A 10 000L water supply is proposed for the proposed dual occupancy and a 20 000L water supply is recommended as an upgrade measure for the existing dwelling.
- The proposed dual occupancy (2nd dwelling) is to have a turning head complying with Figure 3.5 Draft PBP2018 (see attached Appendix C) adjacent to the water supply (concrete tank) for the proposed second dwelling. This will also provide NSW RFS a suitable turn around area in general when using the existing carriage way to attend to other properties. The existing dwelling will not have a turning head but will have a hardstand area adjacent to the water supply and the existing carriageway which will allow a fire-fighting appliance to access the water supply and to reverse back out onto the existing carriage way creating a better outcome for the existing dwelling.
- A fire-fighting pump and hose will be recommended for the proposed dual occupancy and the existing dwelling to allow occupants to prepare for a bushfire event if it is safe to do so.
- Evacuation planning will be a recommendation providing triggers for early and safe evacuation prior to a bushfire event or on days where the fire danger index is high.
- The proposed dual occupancy will be constructed to meet the requirements of BAL 29 AS 3959-2009 + Addendum to Appendix 3 PBP2006 whilst the existing dwelling will be recommended for upgrading to improve resilience against ember attack.
- A passing bay will be recommended for the existing carriage located within the subject property, Lot 1 DP 445771 and Lot 7 DP 591828 and the easement re-aligned over the existing carriage way within these lots only and detailing the passing bays within these lots. This will create a better outcome for the residents using the carriageway not only in a bushfire event but in day to day use.

Ensure that the footprint of the proposed building does not extend towards the hazard beyond existing building lines on neighbouring land.

This objective generally relates to an urban environment however it is noted there are many dwellings accessed by the existing property access road that do not have specific bushfire protection measures and are closer to the hazard than the subject dual occupancy once the asset protection zone has been implemented.

Not result in an increased bush fire management and maintenance responsibility on adjoining land owners unless they have agreed to the development.

There will be no increased responsibilities on adjoining land owners than currently exist to protect the existing dwelling. Asset protection zones will be located wholly within the subject property.

Ensure building design and construction enhance the chances of occupant and building survival.

The proposed dual occupancy dwelling will be upgraded to comply with the requirements of BAL 29 AS 3959-2009 + Addendum to Appendix 3 PBP2006 whilst the existing dwelling will be recommended for upgrading to improve resilience against ember attack.

7.0 LANDSCAPING

The majority of buildings adversely impacted upon in a bushfire event happen through ember attack and in this regard combustible material surrounding the building e.g. landscaping can play a significant part during the event. Adequate management of landscaping is critical to the survivability of an asset and for occupant safety during a bushfire.

It is recommended that landscaping is undertaken in accordance Appendix 5 of Planning for Bushfire Protection 2006 and managed and maintained for the life of the development.

8.0 CONCLUSION

This assessment demonstrates that the proposed development will be compliant with the intent of *Planning for Bushfire Protection 2006* for infill development based on the recommendations contained in Section 1 of this report, and other considerations contained within the report.

DISCLAIMER

This consultation report was prepared for the purposes and exclusive use of the stated client for inclusion with a development application, and is to be referred to NSW RFS pursuant to s4.14 of the Environmental Planning and Assessment Act 1979. The report relates to the proposed change of use of an existing structure to a dual occupancy dwelling on the subject property, and is not to be used for any other purpose or by any other person or Corporation. BCA Check Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or Corporation who may use or rely on this report in contravention of the terms of this clause. This report is not intended for or to be used where aluminium composite panels are proposed. The report is not to be construed as an assessment of the building materials or compliance with the recommended bushfire attack level/s.

As identified in Planning for Bushfire Protection 2006 and the Building Code of Australia the report provides recommendations to reduce the risk of ignition and does not guarantee the complete protection of the building in the event of bush fire or that the building will not be adversely impacted upon.

Reporting has been based on relevant Council and Rural Fire Service Guidelines however recommendations or suggestions given in this report are based on our site investigation at the time of reporting. In some cases site conditions may change dramatically within a few years due to rapid vegetation re-growth and invading weed species.

REFERENCES

NSW Rural Fire Service and Planning NSW (2006), *Planning for bushfire protection, A guide for councils planners fire authorities developers and homeowners*. Rural Fire Service NSW Australia.

Standards Australia, (2009), *AS3959 Construction of buildings in bushfire prone areas*, Australian Standards, Sydney.

LEGISLATION

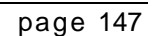
Environmental Planning and Assessment Act 1979 and Regulations 2000. *New South Wales*. Parliamentary Counsel's Office, NSW Government Information Service.

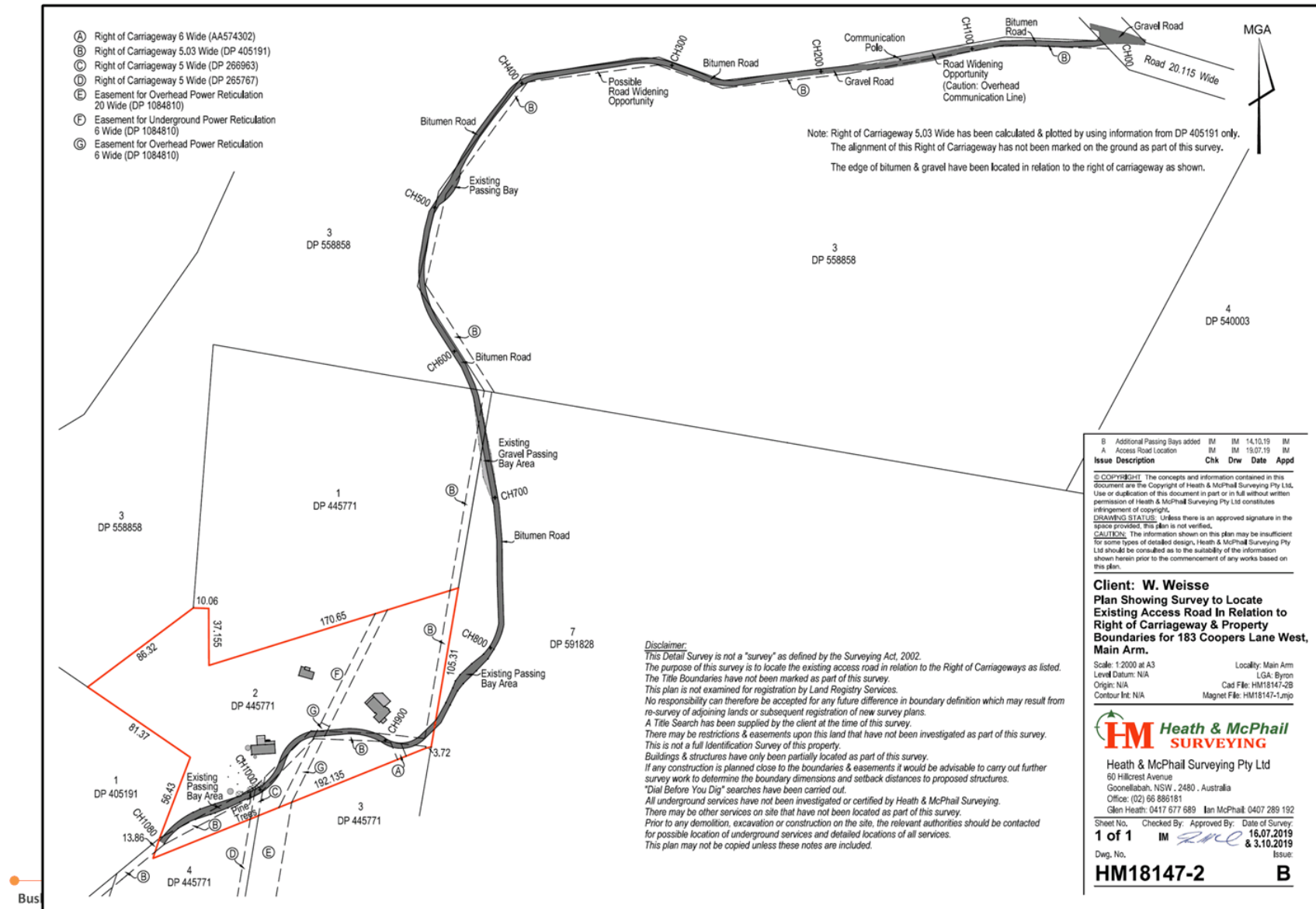
Rural Fires Act 1997. *New South Wales*. Parliamentary Counsel's Office, NSW Government Information Service.

Rural Fires Regulation. *New South Wales*. Parliamentary Counsel's Office, NSW Government Information Service.

APPENDIX A: Site and access plans

13.3 - ATTACHMENT 10





APPENDIX B: Access s4.1.3(2) PBP2006

Access [2] – Property Access

Intent of measures: to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupants faced with evacuation.

Background

The public road system in a bush fire prone area should provide alternative access or egress for firefighters and residents during a bush fire emergency if part of the road system is cut by fire.

Property access is access from a public road system onto private land and access to the habitable building by fire fighters.

A distinction is drawn between rural private access roads and those in urban areas.

In rural areas, in particular isolated rural properties, operational difficulties can be experienced in accessing buildings. Examples include water crossings, roads being cut by fire and hazardous conditions. As a result, the location

and standards of property access roads should be carefully considered.

Where property access is required across other land, the owner's consent to legally binding arrangements covering access and ongoing maintenance are required prior to lodging a development application.

Short property access roads are preferable to long ones for the safety of evacuating residents and emergency service personnel, and therefore it is preferable to site dwellings as close as possible to public through roads.

By comparison, urban areas have an existing infrastructure and requirements are generally less of a problem. In addition, it is acknowledged that fire appliances will generally operate from the public road system.

Where a property access road provides internal access arrangements for community title or similar subdivision arrangements, the provisions of 4.2.7 in relation to internal roads also apply.

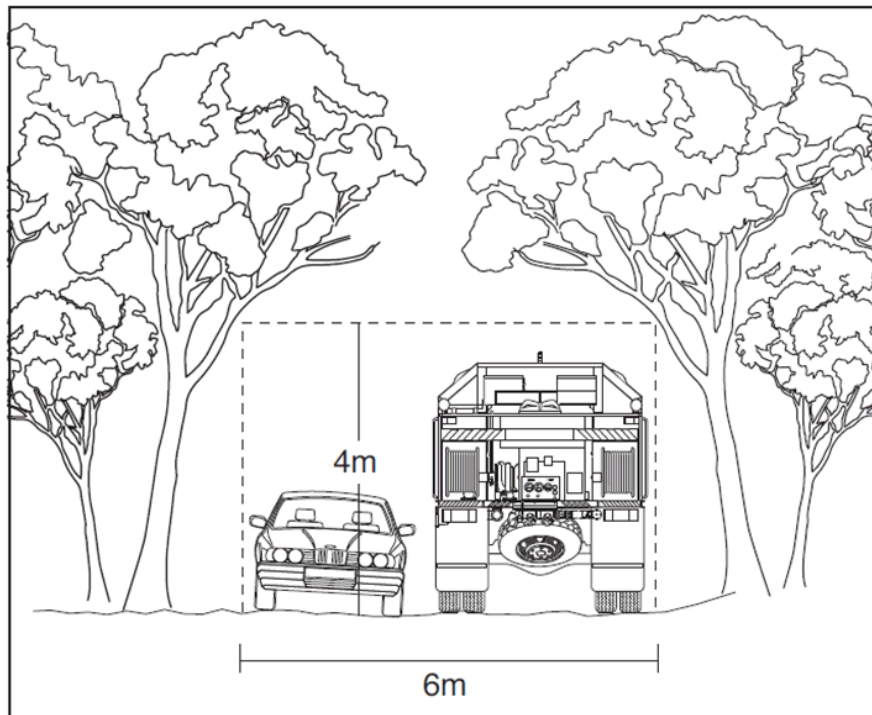


Figure 4.5 Property access road requirements (rural areas)

Performance Criteria	Acceptable solutions
The intent may be achieved where:	
<ul style="list-style-type: none"> access to properties is provided in recognition of the risk to fire fighters and/ or evacuating occupants. 	<ul style="list-style-type: none"> at least one alternative property access road is provided for individual dwellings (or groups of dwellings) that are located more than 200 metres from a public through road
<ul style="list-style-type: none"> the capacity of road surfaces and bridges is sufficient to carry fully loaded firefighting vehicles. all weather access is provided. 	<ul style="list-style-type: none"> bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge).
<ul style="list-style-type: none"> road widths and design enable safe access for vehicles 	<ul style="list-style-type: none"> a minimum carriageway width of four metres for rural-residential areas, rural landholdings or urban areas with a distance of greater than 70 metres from the nearest hydrant point to the most external part of a proposed building (or footprint). <p><i>Note: No specific access requirements apply in a urban area where a 70 metres unobstructed path can be demonstrated between the most distant external part of the proposed dwelling and the nearest part of the public access road (where the road speed limit is not greater than 70kph) that supports the operational use of emergency firefighting vehicles (i.e. a hydrant or water supply).</i></p> <ul style="list-style-type: none"> in forest, woodland and heath situations, rural property access roads have passing bays every 200 metres that are 20 metres long by two metres wide, making a minimum trafficable width of six metres at the passing bay. a minimum vertical clearance of four metres to any overhanging obstructions, including tree branches. internal roads for rural properties provide a loop road around any dwelling or incorporate a turning circle with a minimum 12 metre outer radius. curves have a minimum inner radius of six metres and are minimal in number to allow for rapid access and egress. the minimum distance between inner and outer curves is six metres. the crossfall is not more than 10 degrees. maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads. <p><i>Note: Some short constrictions in the access may be accepted where they are not less than the minimum (3.5m), extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development property access roads in addition to the above.</i></p> <ul style="list-style-type: none"> access to a development comprising more than three dwellings have formalised access by dedication of a road and not by right of way.

APPENDIX C: Turning Head Requirements

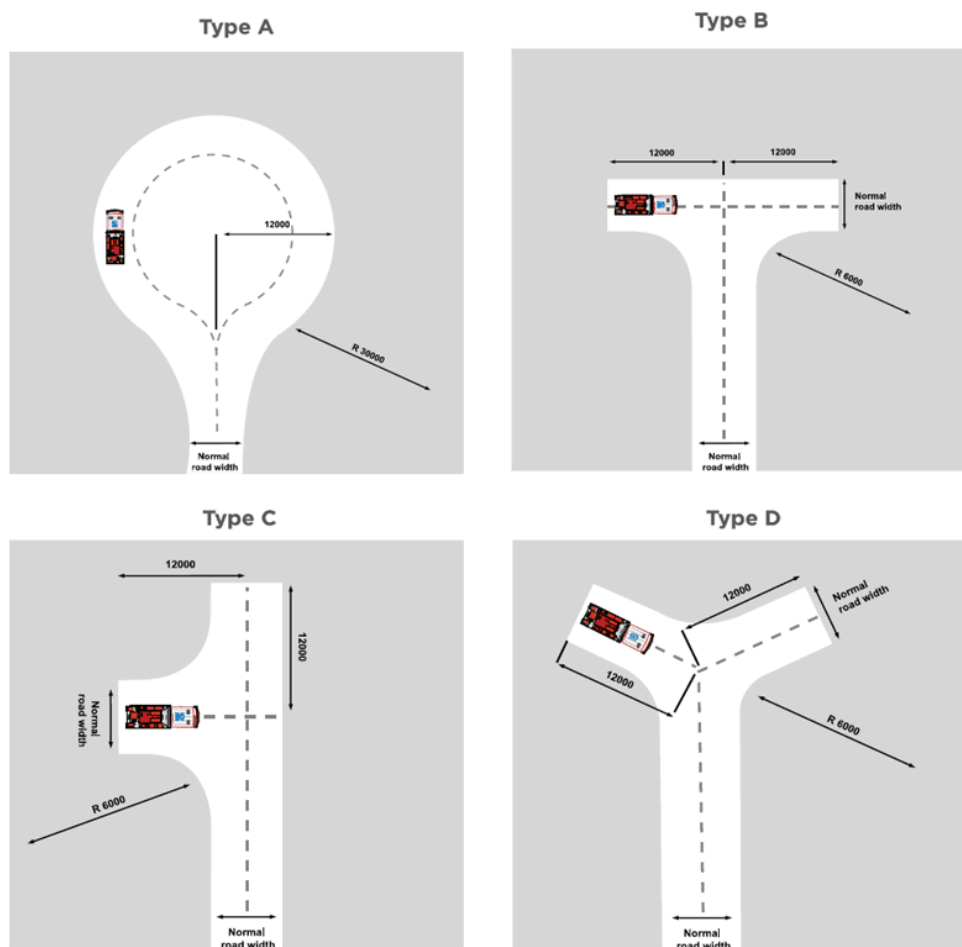
A3.3 Vehicle turning head requirements

Where a turning head is proposed the NSW RFS requires that dead ends having a length greater than 20 metres should be provided with a turning head area which avoids multipoint turns.

The minimum turning radius should be no less than the respective outer radius given in table A3.2. Where multipoint turning is proposed the NSW RFS will consider the following types:

Figure A3.5

Multipoint turning options



APPENDIX D: Standards for Asset Protection Zones (RFS 2005)

protection

NSW RURAL FIRE SERVICE



STANDARDS FOR ASSET PROTECTION ZONES

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INTRODUCTION

For thousands of years bush fires have been a natural part of the Australian landscape. They are inevitable and essential, as many Australian plants and animals have adapted to fire as part of their life cycle.

In recent years developments in bushland areas have increased the risk of bush fires harming people and their homes and property. But landowners can significantly reduce the impact of bush fires on their property by identifying and minimising bush fire hazards. There are a number of ways to reduce the level of hazard to your property, but one of the most important is the creation and maintenance of an Asset Protection Zone (APZ).

A well located and maintained APZ should be used in conjunction with other preparations such as good property maintenance, appropriate building materials and developing a family action plan.

WHAT IS AN ASSET PROTECTION ZONE?

An Asset Protection Zone (APZ) is a fuel reduced area surrounding a built asset or structure. This can include any residential building or major building such as farm and machinery sheds, or industrial, commercial or heritage buildings.

An APZ provides:

- a buffer zone between a bush fire hazard and an asset;
- an area of reduced bush fire fuel that allows suppression of fire;
- an area from which backburning may be conducted; and
- an area which allows emergency services access and provides a relatively safe area for firefighters and home owners to defend their property.

Potential bush fire fuels should be minimised within an APZ. This is so that the vegetation within the planned zone does not provide a path for the transfer of fire to the asset either from the ground level or through the tree canopy.

WHAT WILL THE APZ DO?

An APZ, if designed correctly and maintained regularly, will reduce the risk of:

- direct flame contact on the asset;
- damage to the built asset from intense radiant heat; and
- ember attack on the asset.

WHERE SHOULD I PUT AN APZ?

An APZ is located between an asset and a bush fire hazard.

The APZ should be located wholly within your land. You cannot undertake any clearing of vegetation on a neighbour's property, including National Park estate, Crown land or land under the management of your local council, unless you have written approval.

If you believe that the land adjacent to your property is a bush fire hazard and should be part of an APZ, you can have the matter investigated by contacting the NSW Rural Fire Service (RFS).

There are six steps to creating and maintaining an APZ. These are:

1. Determine if an APZ is required;
2. Determine what approvals are required for constructing your APZ;
3. Determine the APZ width required;
4. Determine what hazard reduction method is required to reduce bush fire fuel in your APZ;
5. Take measures to prevent soil erosion in your APZ; and
6. Landscape and regularly monitor in your APZ for fuel regrowth.

STEP 1. DETERMINE IF AN APZ IS REQUIRED

Recognising that a bush fire hazard exists is the first step in developing an APZ for your property.

If you have vegetation close to your asset and you live in a bush fire prone or high risk area, you should consider creating and maintaining an APZ.

Generally, the more flammable and dense the vegetation, the greater the hazard will be. However, the hazard potential is also influenced by factors such as slope.

- A large area of continuous vegetation on sloping land may increase the potential bush fire hazard.
- The amount of vegetation around a house will influence the intensity and severity of a bush fire.
- The higher the available fuel the more intense a fire will be.



Isolated areas of vegetation are generally not a bush fire hazard, as they are not large enough to produce fire of an intensity that will threaten dwellings.

This includes:

- bushland areas of less than one hectare that are isolated from large bushland areas; and
- narrow strips of vegetation along road and river corridors.

If you are not sure if there is a bush fire hazard in or around your property, contact your local NSW Rural Fire Service Fire Control Centre or your local council for advice.

STEP 2. DETERMINE WHAT APPROVALS ARE REQUIRED FOR CONSTRUCTING YOUR APZ

If you intend to undertake bush fire hazard reduction works to create or maintain an APZ you must gain the written consent of the landowner.

Subdivided land or construction of a new dwelling

If you are constructing an APZ for a new dwelling you will need to comply with the requirements in *Planning for Bushfire Protection*. Any approvals required will have to be obtained as part of the Development Application process.

Existing asset

If you wish to create or maintain an APZ for an existing structure you may need to obtain an environmental approval. The RFS offers a free environmental assessment and certificate issuing service for essential hazard reduction works. For more information see the RFS document *Application Instructions for a Bush Fire Hazard Reduction Certificate* or contact your local RFS Fire Control Centre to determine if you can use this approval process.

Bear in mind that all work undertaken must be consistent with any existing land management agreements (e.g. a conservation agreement, or property vegetation plan) entered into by the property owner.

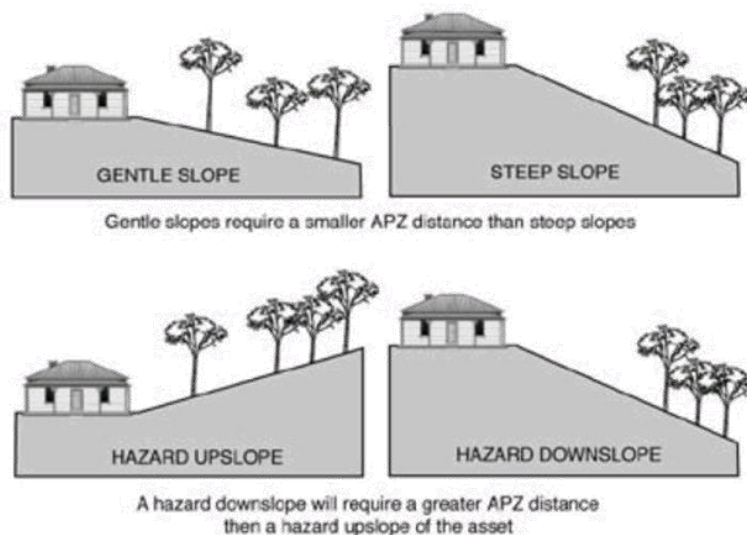
If your current development consent provides for an APZ, you do not need further approvals for works that are consistent with this consent.

If you intend to burn off to reduce fuel levels on your property you may also need to obtain a Fire Permit through the RFS or NSW Fire Brigades. See the RFS document *Before You Light That Fire* for an explanation of when a permit is required.

STEP 3. DETERMINE THE APZ WIDTH

The size of the APZ required around your asset depends on the nature of the asset, the slope of the area, the type and structure of nearby vegetation and whether the vegetation is managed.

Fires burn faster uphill than downhill, so the APZ will need to be larger if the hazard is downslope of the asset.



5

Different types of vegetation (for example, forests, rainforests, woodlands, grasslands) behave differently during a bush fire. For example, a forest with shrubby understorey is likely to result in a higher intensity fire than a woodland with a grassy understorey and would therefore require a greater APZ width.

A key benefit of an APZ is that it reduces radiant heat and the potential for direct flame contact on homes and other buildings. Residential dwellings require a wider APZ than sheds or stockyards because the dwelling is more likely to be used as a refuge during bush fire.

Subdivided land or construction of a new dwelling

If you are constructing a new asset, the principles of *Planning for Bushfire Protection* should be applied. Your Development Application approval will detail the exact APZ distance required.

Existing asset

If you wish to create an APZ around an existing asset and you require environmental approval, the Bush Fire Environmental Assessment Code provides a streamlined assessment process. Your Bush Fire Hazard Reduction Certificate (or alternate environmental approval) will specify the maximum APZ width allowed.

For further information on APZ widths see *Planning for Bushfire Protection* or the *Bush Fire Environmental Assessment Code* (available on the RFS website), or contact your local RFS Fire Control Centre.

STEP 4. DETERMINE WHAT HAZARD REDUCTION METHOD IS REQUIRED TO REDUCE BUSH FIRE FUEL IN YOUR APZ

The intensity of bush fires can be greatly reduced where there is little to no available fuel for burning. In order to control bush fire fuels you can reduce, remove or change the state of the fuel through several means.

Reduction of fuel does not require removal of all vegetation, which would cause environmental damage. Also, trees and plants can provide you with some bush fire protection from strong winds, intense heat and flying embers (by filtering embers) and changing wind patterns. Some ground cover is also needed to prevent soil erosion.

Fuels can be controlled by:

1. raking or manual removal of fine fuels

Ground fuels such as fallen leaves, twigs (less than 6 mm in diameter) and bark should be removed on a regular basis. This is fuel that burns quickly and increases the intensity of a fire.

Fine fuels can be removed by hand or with tools such as rakes, hoes and shovels.

2. mowing or grazing of grass

Grass needs to be kept short and, where possible, green.

3. removal or pruning of trees, shrubs and understorey

The control of existing vegetation involves both selective fuel reduction (removal, thinning and pruning) and the retention of vegetation.

Prune or remove trees so that you do not have a continuous tree canopy leading from the hazard to the asset. Separate tree crowns by two to five metres. A canopy should not overhang within two to five metres of a dwelling.

Native trees and shrubs should be retained as clumps or islands and should maintain a covering of no more than 20% of the area.

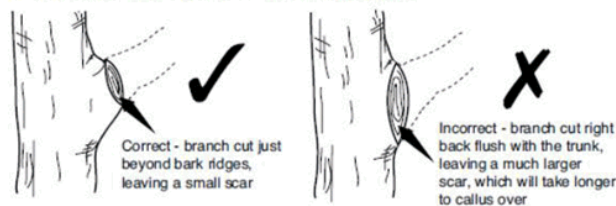
When choosing plants for removal, the following basic rules should be followed:

1. Remove noxious and environmental weeds first. Your local council can provide you with a list of environmental weeds or 'undesirable species'. Alternatively, a list of noxious weeds can be obtained at www.agric.nsw.gov.au/noxweed/;
2. Remove more flammable species such as those with rough, flaky or stringy bark; and
3. Remove or thin understorey plants, trees and shrubs less than three metres in height

The removal of significant native species should be avoided.

Prune in accordance with the following standards:

- Use sharp tools. These will enable clean cuts and will minimise damage to the tree.
- Decide which branches are to be removed before commencing work. Ensure that you maintain a balanced, natural distribution of foliage and branches.
- Remove only what is necessary.
- Cut branches just beyond bark ridges, leaving a small scar.
- Remove smaller branches and deadwood first.



There are three primary methods of pruning trees in APZs:

1. Crown lifting (skirting)

Remove the lowest branches (up to two metres from the ground). Crown lifting may inhibit the transfer of fire between the ground fuel and the tree canopy.

2. Thinning

Remove smaller secondary branches whilst retaining the main structural branches of the tree. Thinning may minimise the intensity of a fire.

3. Selective pruning

Remove branches that are specifically identified as creating a bush fire hazard (such as those overhanging assets or those which create a continuous tree canopy). Selective pruning can be used to prevent direct flame contact between trees and assets.

Your Bush Fire Hazard Reduction Certificate or local council may restrict the amount or method of pruning allowed in your APZ.

See the *Australian Standard 4373 (Pruning of Amenity Trees)* for more information on tree pruning.

4. Slashing and trittrering

Slashing and trittrering are economical methods of fuel reduction for large APZs that have good access. However, these methods may leave large amounts of slashed fuels (grass clippings etc) which, when dry, may become a fire hazard. For slashing or trittrering to be effective, the cut material must be removed or allowed to decompose well before summer starts.

If clippings are removed, dispose of them in a green waste bin if available or compost on site (dumping clippings in the bush is illegal and it increases the bush fire hazard on your or your neighbour's property).

Although slashing and trittrering are effective in inhibiting the growth of weeds, it is preferable that weeds are completely removed.

Care must be taken not to leave sharp stakes and stumps that may be a safety hazard.

5. Ploughing and grading

Ploughing and grading can produce effective firebreaks. However, in areas where this method is applied, frequent maintenance may be required to minimise the potential for erosion. Loose soil from ploughed or graded ground may erode in steep areas, particularly where there is high rainfall and strong winds.

6. Burning (hazard reduction burning)

Hazard reduction burning is a method of removing ground litter and fine fuels by fire. Hazard reduction burning of vegetation is often used by land management agencies for broad area bush fire control, or to provide a fuel reduced buffer around urban areas.

Any hazard reduction burning, including pile burns, must be planned carefully and carried out with extreme caution under correct weather conditions. Otherwise there is a real danger that the fire will become out of control. More bush fires result from escaped burning off work than from any other single cause.

It is YOUR responsibility to contain any fire lit on your property. If the fire escapes your property boundaries you may be liable for the damage it causes.

Hazard reduction burns must therefore be carefully planned to ensure that they are safe, controlled, effective and environmentally sound. There are many factors that need to be considered in a burn plan. These include smoke control, scorch height, frequency of burning and cut off points (or control lines) for the fire. For further information see the RFS document *Standards for Low Intensity Bush Fire Hazard Reduction Burning*, or contact your local RFS for advice.

7. Burning (pile burning)

In some cases, where fuel removal is impractical due to the terrain, or where material cannot be disposed of by the normal garbage collection or composted on site, you may use pile burning to dispose of material that has been removed in creating or maintaining an APZ.

For further information on pile burning, see the RFS document *Standards for Pile Burning*.

In areas where smoke regulations control burning in the open, you will need to obtain a Bush Fire Hazard Reduction Certificate or written approval from Council for burning. During the bush fire danger period a Fire Permit will also be required. See the RFS document *Before You Light that Fire* for further details.

STEP 5. TAKE MEASURES TO PREVENT SOIL EROSION

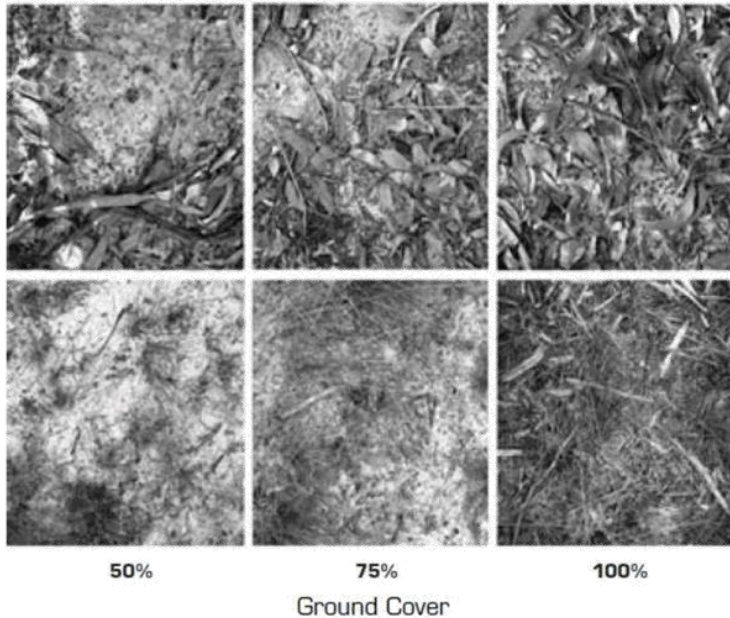
While the removal of fuel is necessary to reduce a bush fire hazard, you also need to consider soil stability, particularly on sloping areas.

Soil erosion can greatly reduce the quality of your land through:

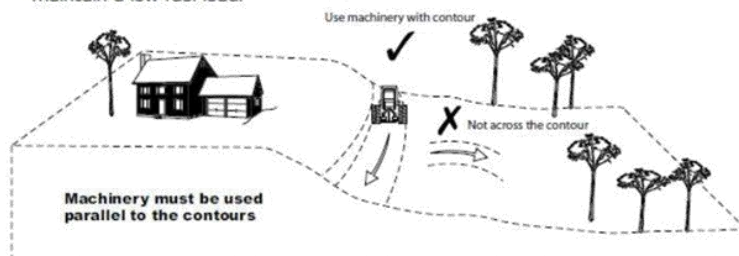
- loss of top soil, nutrients, vegetation and seeds
- reduced soil structure, stability and quality
- blocking and polluting water courses and drainage lines

A small amount of ground cover can greatly improve soil stability and does not constitute a significant bush fire hazard. Ground cover includes any material which directly covers the soil surface such as vegetation, twigs, leaf litter, clippings or rocks. A permanent ground cover should be established (for example, short grass). This will provide an area that is easy to maintain and prevent soil erosion.

When using mechanical hazard reduction methods, you should retain a ground cover of at least 75% to prevent soil erosion. However, if your area is particularly susceptible to soil erosion, your Hazard Reduction Certificate may require that 90% ground cover be retained.



To reduce the incidence of soil erosion caused by the use of heavy machinery such as ploughs, dozers and graders, machinery must be used parallel to the contours. Vegetation should be allowed to regenerate, but be managed to maintain a low fuel load.



STEP 6. ONGOING MANAGEMENT AND LANDSCAPING

Your home and garden can blend with the natural environment and be landscaped to minimise the impact of fire at the same time. To provide an effective APZ, you need to plan the layout of your garden to include features such as fire resistant plants, radiant heat barriers and windbreaks.

Layout of gardens in an APZ

When creating and maintaining a garden that is part of an APZ you should:

- ensure that vegetation does not provide a continuous path to the house;
- remove all noxious and environmental weeds;
- plant or clear vegetation into clumps rather than continuous rows;
- prune low branches two metres from the ground to prevent a ground fire from spreading into trees;
- locate vegetation far enough away from the asset so that plants will not ignite the asset by direct flame contact or radiant heat emission;
- plant and maintain short green grass around the house as this will slow the fire and reduce fire intensity. Alternatively, provide non-flammable pathways directly around the dwelling;
- ensure that shrubs and other plants do not directly abut the dwelling. Where this does occur, gardens should contain low-flammability plants and non flammable ground cover such as pebbles and crush tile; and
- avoid erecting brush type fencing and planting "pencil pine" type trees next to buildings, as these are highly flammable.



Removal of other materials

Woodpiles, wooden sheds, combustible material, storage areas, large quantities of garden mulch, stacked flammable building materials etc. should be located away from the house. These items should preferably be located in a designated cleared location with no direct contact with bush fire hazard vegetation.

Other protective features

You can also take advantage of existing or proposed protective features such as fire trails, gravel paths, rows of trees, dams, creeks, swimming pools, tennis courts and vegetable gardens as part of the property's APZ.

PLANTS FOR BUSH FIRE PRONE GARDENS

When designing your garden it is important to consider the type of plant species and their flammability as well as their placement and arrangement.

Given the right conditions, all plants will burn. However, some plants are less flammable than others.

Trees with loose, fibrous or stringy bark should be avoided. These trees can easily ignite and encourage the ground fire to spread up to, and then through, the crown of the trees.

Plants that are less flammable, have the following features:

- high moisture content
- high levels of salt
- low volatile oil content of leaves
- smooth barks without "ribbons" hanging from branches or trunks; and
- dense crown and elevated branches.

When choosing less flammable plants, be sure not to introduce noxious or environmental weed species into your garden that can cause greater long-term environmental damage.

For further information on appropriate plant species for your locality, contact your local council, plant nurseries or plant society.

If you require information on how to care for fire damaged trees, refer to the Firewise brochure *Trees and Fire Resistance; Regeneration and care of fire damaged trees*.

WIND BREAKS

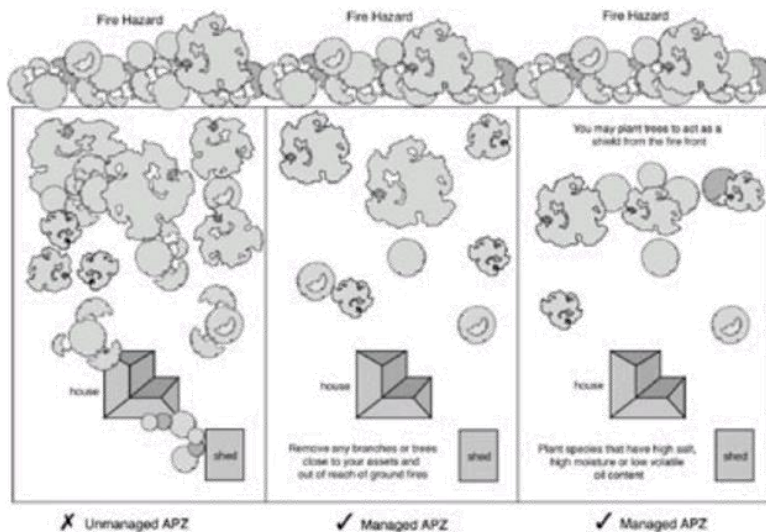
Rows of trees can provide a wind break to trap embers and flying debris that could otherwise reach the house or asset.

You need to be aware of local wind conditions associated with bush fires and position the wind break accordingly. Your local RFS Fire Control Centre can provide you with further advice.

When choosing trees and shrubs, make sure you seek advice as to their maximum height. Their height may vary depending on location of planting and local conditions. As a general rule, plant trees at the same distance away from the asset as their maximum height.

When creating a wind break, remember that the object is to slow the wind and to catch embers rather than trying to block the wind. In trying to block the wind, turbulence is created on both sides of the wind break making fire behaviour erratic.

11



HOW CAN I FIND OUT MORE?

The following documents are available from your local Fire Control Centre and from the NSW RFS website at www.rfs.nsw.gov.au.

- Before You Light That Fire
- Standards for Low Intensity Bush Fire Hazard Reduction Burning
- Standards for Pile Burning
- Application Instructions for a Bush Fire Hazard Reduction Certificate

If you require any further information please contact:

- your local NSW Rural Fire Service Fire Control Centre. Location details are available on the RFS website or
- call the NSW RFS Enquiry Line 1800 679 737 (Monday to Friday, 9am to 5pm), or
- the NSW RFS website at www.rfs.nsw.gov.au.

**Produced by the NSW Rural Fire Service, Locked Mail Bag 17,
GRANVILLE, NSW 2142. Ph. 1800 679 737**
www.rfs.nsw.gov.au

Printed on 100% Recycled Cyclus Offset paper.

APPENDIX E: NSW Rural Fire Service correspondence dated 9 May 2019

All communications to be addressed to:

Headquarters
4 Murray Rose Ave
Sydney Olympic Park NSW 2127

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Headquarters
Locked Bag 17
Granville NSW 2142

Facsimile: 8741 5433



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

Your Ref: 10.2018.384.1
Our Ref: D18/6791
DA18081014495 NP

ATTENTION: Heidi Hutchinson

9 May 2019

Dear Ms Hutchinson

Development Application - 2/445771 - 183 Coopers West Lane Main Arm

I refer to your correspondence dated 3 April 2019 seeking advice regarding bush fire protection for the above Development Application in accordance with Clause 55(1) of the Environmental Planning and Assessment Regulation 2000.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity, the property around the existing dwelling shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
 - north for a distance of 50 metres or to the property boundary, whichever is the lesser, as an asset protection zone (APZ);
 - south for a distance of 40 metres or to the property boundary, whichever is the lesser, as an asset protection zone;
 - east for a distance of 50 metres or to the property boundary, whichever is the lesser, as an asset protection zone; and
 - west for a distance of 90 metres as an asset protection zone.

ID:114495/112024/5

Page 1 of 3

(Note: in forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.)

2. At the commencement of building works and in perpetuity, the property around the 2nd dwelling (detached) shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':

- north and northwest for a distance of 52 metres or to the property boundary, whichever is the lesser, as an asset protection zone (APZ);
- northeast for a distance of 42 metres as an asset protection zone;
- east for a distance of 27 metres as an asset protection zone;
- south and southwest for a distance of 21 metres as an asset protection zone; and
- west for a distance of 40 metres as an asset protection zone.

(Note: in forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.)

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. The existing dwelling is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

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6. Construction on the 2nd dwelling shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

General Advice – consent authority to note

The recommendations are based on the plans prepared by Heath & McPhail Surveying Pty Ltd, titled 'Plan Showing Partial Detail & Contour Survey over Part of Lot 2 in DP 445771, 183 Coopers Lane West, Main Arm', Survey dated 10 October 2018 (Amended 17 January 2019), Statement of Environmental Effects prepared by Chris Lonergan of Byron Bay Planning & Property Consultants dated 17 July 2018 and correspondence prepared by Bushfire Certifiers dated 22 March 2019.

The NSW RFS acknowledges that the existing road system servicing the subject land has some constraints, but is serviceable for the current proposed development. However, Council would need to undertake appropriate traffic studies to determine the capacity of the current Right of Way and Coopers West Lane with respect to increased traffic generated by increased dwelling densities in the locality.

This letter is in response to a further assessment of the application submitted and supersedes our previous advice regarding bush fire protection dated 22 November 2018.

Should you wish to discuss this matter please contact Neil Pengilly on 1300 NSW RFS.

Yours sincerely



Alan Bawden
Team Leader - Development Assessment and Planning

For general information on bush fire protection please visit www.rfs.nsw.gov.au

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NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: 10.2018.384.1
Our reference: DA-2018-03006-CL55-1

ATTENTION: Ivan Holland

Date: Tuesday 3 December 2019

Dear Sir/Madam,

Development Application
s4.14 - Multiple Dwelling - Dual Occupancy
183 Coopers West Lane Main Arm NSW 2482 AUS, 2//DP445771

I refer to your correspondence dated 28/10/2019 seeking advice regarding bush fire protection for the above Development Application in accordance with Clause 55(1) of the *Environmental Planning and Assessment Regulation 2000*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity, the property around the existing dwelling shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
 - north and northeast for a distance of 40 metres or to the property boundary, whichever is the lesser, as an inner protection area (IPA);
 - south for a distance of 10 metres as an inner protection area;
 - east and southeast for a distance of 21 metres or to the property boundary, whichever is the lesser, as an inner protection area; and
 - west for a distance of 21 metres as an inner protection area.
2. At the commencement of building works and in perpetuity, the property around the proposed dwelling (detached) shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
 - north, northwest and west for a distance of 52 metres or to the property boundary, whichever is the lesser, as an inner protection area (IPA);

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



- northeast for a distance of 42 metres as an inner protection area;
- east for a distance of 27 metres as an inner protection area; and
- south and southwest for a distance of 21 metres and extended to include the concrete water supply tank and vehicle turning area.

Permanent markers are to be provided on site identifying the extent of the APZ but in particular to the west, northwest and north of the proposed dwelling to further assist in ensuring these areas are managed in perpetuity.

(Note: No objection is made to the retention of 6 Ironbark trees within the required APZ to the north/northwest of the dwelling as described in the bushfire report prepared by Bushfire Certifiers dated 14 October, 2019.)

Construction Standards

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

3. The proposed dwelling shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

4. The existing dwelling is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Access – Property Access

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

5. The right-of-way is to be re-aligned over the existing property access road within the subject property, Lot 1 DP 445771 and Lot 7 DP 591828 and is to include the proposed/existing passing bays (on the aforementioned properties) as identified on the survey plan prepared by Heath & McPhail Surveying Pty Ltd, Drawing No. HM18147-2, Issue B dated 14th October 2019. The road widening opportunity within the existing easement in the vicinity of chainage 120 as identified in the survey plan is not to extend beyond the communications cable located 3-4m above ground level.

6. A turning head is to be provided adjacent to the proposed dwelling complying with Figure A3.5 Draft Planning for Bush Fire Protection 2018. A passing bay complying with s4.1.3(2) PBP2006 is to be provided from the internal property access road within the subject property and adjacent to the concrete tank identified for static fire-fighting supply for the proposed dual occupancy.

7. The property is located such that access/egress presents an ongoing bush fire hazard. As such a Bush Fire Survival Plan is to be prepared by the residents of the dwelling. Information to assist in the preparation of a Bush Fire Survival Plan can be found at www.rfs.nsw.gov.au.

Water and Utility Services

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

8. Water, electricity and gas must comply with the following:
- In addition to the existing 20,000 litre water tank provided onsite, an additional 10,000 litre static water supply tank must be provided for fire fighting purposes to the proposed dwelling.
 - The tank must be located / designed so that a connection for fire fighting purposes is located within the inner protection area (IPA) or on the non-hazard side away from the building.

2



- Underground tanks must be clearly marked, have an access hole of 200mm to allow fire fighting appliances to refill direct from the tank, and have a hardened ground surface for truck access within 4 metres of the access hole.
- Aboveground tanks must be manufactured of concrete or metal. Raised tanks must have their stands protected.
- Tanks on the hazard side of a building must be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for firefighters.
- A standard 65mm metal Storz outlet with a gate or ball valve must be provided to the tank. The gate or ball valve, pipes and tank penetration of any tank must be adequate for full 50mm inner diameter water flow through the Storz fitting and made of metal.
- All associated fittings to the tank must be metal.
- A pump for fire suppression activities is to be provided and must be a minimum 5hp or 3kW petrol or diesel powered. The pump must be shielded from the direct impacts of bush fire. A fire fighting hose is to be available and must have an internal diameter of 19mm.
- An SWS marker must be obtained from the local NSW RFS and positioned for ease of identification by fire fighting personnel and other users of the SWS. Markers must be fixed in a suitable location so as to be highly visible and be positioned adjacent to the most appropriate access for the static water supply.
- All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
- Any new electrical transmission lines should be located underground where possible. Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- Gas must be installed and maintained as set out in the relevant Australian Standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.
- Fixed gas cylinders must be kept at least 10 metres clear of flammable materials and be shielded on the hazard side. Connections must be metal. Cylinders near to a building must be have safety valves directed away from the building and be at least 2 metres from combustible materials.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

9. Landscaping within the required inner protection areas should comply with following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006':

- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
- Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- Planting is limited in the immediate vicinity of the building.
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located way from the building.
- Low flammability vegetation species are used.

General Advice – Consent Authority to Note

The recommendations are based on the plans prepared by Heath & McPhail Surveying Pty Ltd, titled 'Plan Showing Partial Detail & Contour Survey over Part of Lot 2 in DP 445771, 183 Coopers Lane West, Main Arm,

3



Survey dated 10 October 2018 (Amended 17 January 2019)', titled 'Plan showing Survey to Locate Existing Access Road in Relation to Right of Carriageway & Property Boundaries for 183 Coopers Lane West, Main Arm'. and the 'Bush Fire Assessment Report' prepared by Bushfire Certifiers dated 14 October 2019.

This letter is in response to a further assessment of the application submitted and supersedes our previous advice regarding bush fire protection dated 9 May 2019.

For any queries regarding this correspondence, please contact Neil Pengilly on 1300 NSW RFS.

Yours sincerely,

Alan Bawden
Team Leader, Dev. Assessment & Planning
Planning and Environment Services



E2020/5837

**10.2018.384.1
CONDITIONS OF CONSENT:****SCHEDULE 1 DEFERRED COMMENCEMENT****1. Building Information Certificate**

A Building Information Certificate is required to be issued by Council for the dual occupancy dwelling. Prior to issue of the Building Information Certificate the applicant is to demonstrate to Councils satisfaction with evidence in the form of detailed report/s from suitably qualified and experienced professionals the constructed works satisfies

1. The following Performance Provisions of the Building Code of Australia and
2. Section B (Water Services) and Section C (Sanitary Plumbing and Drainage Services) of the Plumbing Code of Australia and
3. Any Environmental Consultants report for the installation and/ or upgrade of the wastewater system installed on the property and
4. Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate;

Performance Requirement of the Building Code of Australia

P2.0.1 Application

P2.1.1 Structural stability and resistance to actions (including glazing)

P2.2.1 Surface water

P2.2.2 Weatherproofing

P2.2.3 Dampness

P2.3.2 Fire detection and early warning

P2.4.1 Wet areas

P2.4.2 Room heights

P2.4.3 Facilities

P2.4.4 Light

P2.4.5 Ventilation

P2.5.1 Stairways and ramps

P2.5.2 Barriers

NSW P2.6.1(a) Building Fabric & (b) Building Sealing

NSW P2.6.2 Services

SCHEDULE 2 CONDITIONS OF CONSENT**Parameters of consent****1. Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
HM18147-1 Amendment	Amended Site Plan	Heath & McPhail	3-6-2019

A		Surveying	
P3	Floor & Elevations Plan Proposed Alterations to Existing Dwelling	C. Lonergan	16/05/18
P2	Floor & Elevations Plan Proposed Alterations to Building to be Used as Dwelling	C. Lonergan	3/04/19

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Use of other buildings

This approval does not authorise the use of any other building on the property for habitation or use as a dwelling or tourist and visitor accommodation.

3. Concurrent Approvals

The following approvals are provided under Section 4.12 of Environmental Planning and Assessment Act:

Integrated Approvals under Section 68 of the Local Government Act 1993

- C5 Installing constructing or altering a waste treatment device or a human waste storage facility or a drain connected to any such device or facility.

4. Bush fire safety measures

The land is identified as being bush fire prone land and under Section 4.14 of the Act and the development must comply with the conditions recommended by the NSW Rural Fire Service in the letter dated 3 December 2019, Reference: DA-2018-03006-CL55-1 contained in **Schedule 4** of this Notice of Determination.

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

5. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. A318397 (alterations and additions) and 933409S (dual occupancy), dated 3/6/18.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

Note that the plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

Such plans and specifications must be approved as part of the Construction Certificate.

6. **Domestic Rural Dwelling Water Supply. Amendment to the plan required**
The plans submitted for approval of the Construction Certificate must demonstrate that both the dwelling and dual occupancy have a minimum domestic tank capacity of 40,000 litres dedicated to water supply for each dwelling. The required domestic tank capacity is in addition to any water supply required for BASIX or fire fighting purposes.

Such plans are to be approved as part of the Construction Certificate.

7. **Building to be rendered non-habitable**
The building identified as "Fibreboard Clad Building Metal Roof" on Plan HM18147-1 Amendment A (3/6/19) shall be rendered non-habitable, including removal of the kitchen.

8. **Roof colours to be specified**
The application for a Construction Certificate is to include plans and specifications that indicate the proposed roof colour for the dual occupancy is consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours is not permissible

Such plans and specifications must be approved as part of the Construction Certificate.

9. **Geotechnical Report required – Engineering Works**
A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that:
- the design of the civil engineering works, including retaining walls and/or cut & fill batters, has been assessed as structurally adequate;
 - the civil engineering works will not be affected by landslip or subsidence either above or below the works; and
 - adequate drainage has been provided.

10. **Public Safety Management Plan required**
Consent from Council must be obtained for a Public Safety Management Plan for those works within the road reserve pursuant to Section 138 of the Roads Act 1993. This public safety management plan is to include provision for (but not be limited to):
- a pedestrian barrier, alternative footpaths and ramps as necessary;
 - the loading and unloading of building materials; and
 - parking space for tradesman's vehicles, where such vehicles must be located near the site due to tools and equipment contain within the vehicle.

11. **Traffic Control Plan**
A traffic control plan shall be prepared by a Roads & Maritime Services accredited person for the temporary traffic signage layout and vehicle movements to be used during the erection and removal of signs & barrier within the road reserve. The traffic control plan shall be submitted to and approved by Roads & Maritime Services accredited person 24 hours prior to the event. The consent holder shall forward the approved and Certified Traffic Control Plan to Council.

The TCP shall be prepared in accordance with the following:

- All Traffic Control devices are to conform to AS 1442.2 and 1742.3

- All persons placing and removing Traffic Control devices are to have current accreditation from the RMS.
- All roads are to be barriers and signs removed immediately following the works.

12. Property Access

The application for a Construction Certificate is to include sufficient evidence to demonstrate that the dwellings have suitable vehicular access, particularly that the property access road through Lot 3 DP 558858, Lot 1 DP 445771 and Lot 7 DP 591828, including any changes required by the Rural Fire Service (DA-2018-03006-CL55-1, 3 December 2019), is wholly contained within a legal right of carriageway.

Such evidence should include:

- a) an updated survey of the access road that shows the actual access road and the updated right of carriageway, and
- b) amended property titles that show the right of carriageway has been updated or the equivalent.

NOTE: Rectifying and upgrading the property access may require a combination of:

- a) Amending the right of carriageway to overlay the actual property access road, including widening/passing bays required by the Rural Fire Service; and
- b) Reconstructing/altering the property access road to align with the legal right of carriageway.

13. Property Access within subject property - Design details

The application for a Construction Certificate is to include design plans and details of any upgrades/amendments to the property access, within the subject property, required to comply with the conditions recommended by the NSW Rural Fire Service in the letter dated 3 December 2019, Reference: DA-2018-03006-CL55-1 and condition 12 of this consent.

Such plans and specifications must be approved as part of the Construction Certificate.

14. Dwelling Access & Parking

The application for a Construction Certificate is to include plans and specification that indicate dwelling access, parking and manoeuvring details in accordance with the plans approved by this consent.

The dwelling access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities and section 4.1.3(2) Planning for Bush Fire Protection. Plans are to include, but not be limited to, the following items:

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- b) site conditions affecting the access;
- c) existing and design levels; and
- d) longitudinal section from the road centreline to the car space(s).

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

15. Terms of approval for on-site sewage management required

The On- Site Sewage Management System to be installed in accordance with the Local Government Act Section 68 Application No. **70.2018.1076.1**, and the Local Government Act Section 68 Application No. **70.2018.1077.1**.

16. Remediation of Contaminated Land

The application for a construction certificate must be accompanied by a Detailed Contaminated Land Assessment in accordance with the Greg Alderson and Associates report titled Preliminary Contaminated Land Assessment dated 12 June 2018 and (where required) a Remedial Action Plan must be prepared by a suitably qualified contaminated land specialist with experience in the remediation of contaminated land. The Remedial Action Plan must conform to NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other applicable standards.

The Detailed Contaminated Land Assessment must be submitted, and the Remedial Action Plan (if required) must be approved as part of the Construction Certificate.

17. Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information www.byron.nsw.gov.au/files/publication/swmmp-pro-forma-doc

18. No Tree Removal

No native trees or vegetation may be cleared or removed other than that required to establish the Asset Protection Zones specified in condition 4 with the exception of the six ironbark trees identified on Plan HM18147-1 Amendment A (3/6/19) which are not to be removed.

19. Long Service Levy to be paid

In accordance with Section 4.68 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable).

These payments can be made online at www.longservice.nsw.gov.au. Proof of payment is required to be submitted with the Construction Certificate application.

For further information regarding the Long Service Payment please refer to the website above.

20. Developer Contributions to be paid

Contributions set out in the schedule below are to be paid to Council prior to the release of a Construction Certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

The following conditions are to be complied with prior to any building or construction works commencing

21. Erosion and sediment measures

Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. This may include stockpiled materials such as sand, etc.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

22. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$20 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

23. Remediation of Contaminated Land (where required)

Prior to the commencement of any works associated with this development consent, the following is required:

- a) A suitably qualified contaminated land specialist with experience in the remediation of contaminated land must be engaged by the proponent to oversee and be responsible for all works associated with the implementation of the Remedial Action Plan and subsequent site and soil validation.
- b) A notice of commencement of the remediation work and a copy of the Remedial Action Plan must be provided to Council's Health and Environment Section at least

7 days prior to commencement of the-work.

- c) The notice of commencement must include contact details of the responsible person, including an emergency 24-hour phone number.

The following conditions are to be complied with during any building or construction works

24. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

25. Construction Noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

26. Signs to be erected on building and demolition sites

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

27. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

28. Inspection for on-site sewage management – Primary Dwelling and Dual Occupancy

All plumbing and drainage works is to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for the following inspections to be undertaken:

- a. Internal drainage prior to covering of the works.
- b. External drainage prior to the covering of works.
- c. Irrigation installation prior to the covering of works.
- d. Final.

29. Remediation of Contaminated Land (where required)

Remedial works must be undertaken in conformance with the approved Remedial Action Plan and NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other applicable standards.

30. Removal of asbestos and other wastes

All wastes, including asbestos and arsenic contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licensed Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with *NSW DECC Waste Classification Guidelines (2008)*

www.environment.nsw.gov.au/resources/waste/08202classifywaste.pdf

The applicant/owner is to produce documentary evidence that this condition has been met.

31. WorkCover Authority

All works must be undertaken in accordance with the requirements of the WorkCover Authority.

32. Protection of Native Trees

All trees nominated to be retained by notation or condition of this development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with AS 4970-2009 – Protection of Trees on Development Sites.

33. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

34. Prevention of water pollution

Only clean and unpolluted water is to be discharged to any watercourse to ensure compliance with the Protection of Environment Operations Act.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

35. Muted bushland tones – roof of dual occupancy

To ensure the development is compatible with the surrounding environment, the roof

colour/s of the dual occupancy is to be muted bushland tones. In this regard white, light or bright colours are not permissible.

36. Vegetated Screen

A vegetation screen is to be established to the west of the dual occupancy as shown on Plan HM18147-1 Amendment A (3/6/19). The vegetation screen shall be:

- a. Comprised of native tree and shrub species; and
- b. Of sufficient height and density to minimise the visual impact of the dual occupancy when viewed from the west.

The following conditions are to be complied with prior to the issue of an Occupation Certificate for the buildings

37. Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Council's road/footpath reserve.

38. Remediation of Contaminated Land – Validation Report required

A notice of completion must be provided to Council's Health and Environment Section within 30 days of completion of the remediation work. The notice of completion must be accompanied by a Validation Report prepared by a suitably qualified person with experience in the remediation of contaminated land.

The Validation Report must specify the standard of remediation achieved and certify that the site is suitable for the proposed use. The report must conform to the NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other statutory requirements.

Documentary evidence must be provided confirming the method of disposal and destination of all contaminated soil removed from the site.

39. Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a. Clear of buildings and infrastructure,
- b. Clear of effluent disposal areas,
- c. Not concentrated so as to cause soil erosion,
- d. Not directly to a watercourse, and
- e. Not onto adjoining land.

40. Section 88B Instrument

A Section 88B Instrument and one (1) copy are to be submitted with the application for a final occupation certificate. The accompanying Section 88B Instrument are to provide for:

a) Rights of Carriageway

The creation and alteration of suitable rights of carriageway over the full property access alignment in Lot 2 DP445771, Lot 1 DP445771, Lot 3 DP558858 and Lot 7 DP 591828.

Any redundant rights of carriageway/easements must be extinguished.

41. Compliance with bushfire conditions

Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination, as recommended by the NSW Rural Fire Service in the letter dated 3 December 2019, Reference: DA-2018-03006-CL55-1, have been complied with.

42. On-site sewage management system must be completed

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

43. Approval to Operate required

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

44. Vegetated Screen - certification

Prior to the issue of any occupation certificate documentary evidence must be provided to the Principle Certifying Authority to certify that the vegetated screen has been established as required by condition 36.

The following conditions are to be complied with at all times**45. Protection of Native Trees**

All trees nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with AS 4970-2009 – Protection of Trees on Development Sites.

46. Vegetated Screen - maintenance

The vegetated screen required by condition 36 must be maintained at all times.

47. Use of dual occupancy

The dual occupancy is not to be holiday let or used as tourist and visitor accommodation.

SCHEDULE 3 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 [http://www.legislation.nsw.gov.au/ - /view/regulation/2000/557/part6/div9](http://www.legislation.nsw.gov.au/-/view/regulation/2000/557/part6/div9)

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 4 RURAL FIRE SERVICE CONDITIONS



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: 10.2018.384.1
Our reference: DA-2018-03006-CL55-1

ATTENTION: Ivan Holland

Date: Tuesday 3 December 2019

Dear Sir/Madam,

Development Application
s4.14 - Multiple Dwelling - Dual Occupancy
183 Coopers West Lane Main Arm NSW 2482 AUS, 2//DP445771

I refer to your correspondence dated 28/10/2019 seeking advice regarding bush fire protection for the above Development Application in accordance with Clause 55(1) of the *Environmental Planning and Assessment Regulation 2000*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity, the property around the existing dwelling shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
 - north and northeast for a distance of 40 metres or to the property boundary, whichever is the lesser, as an inner protection area (IPA);
 - south for a distance of 10 metres as an inner protection area;
 - east and southeast for a distance of 21 metres or to the property boundary, whichever is the lesser, as an inner protection area; and
 - west for a distance of 21 metres as an inner protection area.
2. At the commencement of building works and in perpetuity, the property around the proposed dwelling (detached) shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
 - north, northwest and west for a distance of 52 metres or to the property boundary, whichever is the lesser, as an inner protection area (IPA);

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

- northeast for a distance of 42 metres as an inner protection area;
- east for a distance of 27 metres as an inner protection area; and
- south and southwest for a distance of 21 metres and extended to include the concrete water supply tank and vehicle turning area.

Permanent markers are to be provided on site identifying the extent of the APZ but in particular to the west, northwest and north of the proposed dwelling to further assist in ensuring these areas are managed in perpetuity.

(Note: No objection is made to the retention of 6 Ironbark trees within the required APZ to the north/northwest of the dwelling as described in the bushfire report prepared by Bushfire Certifiers dated 14 October, 2019.)

Construction Standards

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

3. The proposed dwelling shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
4. The existing dwelling is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Access – Property Access

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

5. The right-of-way is to be re-aligned over the existing property access road within the subject property, Lot 1 DP 445771 and Lot 7 DP 591828 and is to include the proposed/existing passing bays (on the aforementioned properties) as identified on the survey plan prepared by Heath & McPhail Surveying Pty Ltd, Drawing No. HM18147-2, Issue B dated 14th October 2019. The road widening opportunity within the existing easement in the vicinity of chainage 120 as identified in the survey plan is not to extend beyond the communications cable located 3-4m above ground level.
6. A turning head is to be provided adjacent to the proposed dwelling complying with Figure A3.5 Draft Planning for Bush Fire Protection 2018. A passing bay complying with s4.1.3(2) PBP2006 is to be provided from the internal property access road within the subject property and adjacent to the concrete tank identified for static fire-fighting supply for the proposed dual occupancy.
7. The property is located such that access/egress presents an ongoing bush fire hazard. As such a Bush Fire Survival Plan is to be prepared by the residents of the dwelling. Information to assist in the preparation of a Bush Fire Survival Plan can be found at www.rfs.nsw.gov.au.

Water and Utility Services

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

8. Water, electricity and gas must comply with the following:
 - In addition to the existing 20,000 litre water tank provided onsite, an additional 10,000 litre static water supply tank must be provided for fire fighting purposes to the proposed dwelling.
 - The tank must be located / designed so that a connection for fire fighting purposes is located within the inner protection area (IPA) or on the non-hazard side away from the building.

2



- Underground tanks must be clearly marked, have an access hole of 200mm to allow fire fighting appliances to refill direct from the tank, and have a hardened ground surface for truck access within 4 metres of the access hole.
- Aboveground tanks must be manufactured of concrete or metal. Raised tanks must have their stands protected.
- Tanks on the hazard side of a building must be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for firefighters.
- A standard 65mm metal Storz outlet with a gate or ball valve must be provided to the tank. The gate or ball valve, pipes and tank penetration of any tank must be adequate for full 50mm inner diameter water flow through the Storz fitting and made of metal.
- All associated fittings to the tank must be metal.
- A pump for fire suppression activities is to be provided and must be a minimum 5hp or 3kW petrol or diesel powered. The pump must be shielded from the direct impacts of bush fire. A fire fighting hose is to be available and must have an internal diameter of 19mm.
- An SWS marker must be obtained from the local NSW RFS and positioned for ease of identification by fire fighting personnel and other users of the SWS. Markers must be fixed in a suitable location so as to be highly visible and be positioned adjacent to the most appropriate access for the static water supply.
- All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
- Any new electrical transmission lines should be located underground where possible. Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- Gas must be installed and maintained as set out in the relevant Australian Standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.
- Fixed gas cylinders must be kept at least 10 metres clear of flammable materials and be shielded on the hazard side. Connections must be metal. Cylinders near to a building must be have safety valves directed away from the building and be at least 2 metres from combustible materials.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

9. Landscaping within the required inner protection areas should comply with following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006':

- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
- Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- Planting is limited in the immediate vicinity of the building.
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located way from the building.
- Low flammability vegetation species are used.

General Advice – Consent Authority to Note

The recommendations are based on the plans prepared by Heath & McPhail Surveying Pty Ltd, titled 'Plan Showing Partial Detail & Contour Survey over Part of Lot 2 in DP 445771, 183 Coopers Lane West, Main Arm,



Survey dated 10 October 2018 (Amended 17 January 2019)', titled 'Plan showing Survey to Locate Existing Access Road in Relation to Right of Carriageway & Property Boundaries for 183 Coopers Lane West, Main Arm', and the 'Bush Fire Assessment Report' prepared by Bushfire Certifiers dated 14 October 2019.

This letter is in response to a further assessment of the application submitted and supersedes our previous advice regarding bush fire protection dated 9 May 2019.

For any queries regarding this correspondence, please contact Neil Pengilly on 1300 NSW RFS.

Yours sincerely,

Alan Bawden
Team Leader, Dev. Assessment & Planning
Planning and Environment Services



Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3 - ATTACHMENT 12

Heritage Council have been satisfied (ss139, 146).

Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.**

Section 94 contributions Schedule for						
Rural North						
Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		2	@	1 SDU	=	2
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	1
Schedule valid until		23/01/2019		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-RN)	1.00	SDU @	\$ -	=	\$ -
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 748.27	=	\$ 748.27
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,095.92	=	\$ 1,095.92
Local Community Facilities	(CF-RN)	1.00	SDU @	\$ -	=	\$ -
Bikeways & Footpaths	#NA	1.00	SDU @	\$ -	=	\$ -
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 80.39	=	\$ 80.39
Urban Roads	#NA	1.00	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 226.42	=	\$ 226.42
Rural Roads	(R-RN)	1.00	SDU @	\$ 14,775.16	=	\$ 14,775.16
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,131.82	=	\$ 1,131.82
Total					=	\$ 18,057.98





Acknowledgement of Country

Byron Shire Council acknowledges and pays respect to the Bundjalung of Byron Bay-Arakwal People as traditional owners and custodians of the land within Byron Shire, and forms part of the wider Aboriginal Nation known as Bundjalung.

Council further acknowledges and respects the Widjabul and Mindjumbul people as Traditional Custodians within the Byron Shire.

Council recognises that the most enduring and relevant legacy traditional owners and custodians offer is their deep understanding of the land and water and their commitment to place.

Acknowledgements

Byron Shire Council would like to acknowledge the peer review panel who contributed to the development of this strategy; Rhonda James, Barbara Stewart, and one anonymous. (Please note that the responsibility for this document rests with Council and does not reflect the views of the peer review panel.)

Council would also like to thank the Integrated Pest Management Working Group for continued support and the editing and contributions of Tein McDonald.

Design: Virginia Bear, Little Gecko Media.

Citation

Byron Shire Council Integrated Pest Management Strategy 2019–2029. Byron Shire Council (2019). Mullumbimby, NSW.

Cover

Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South-east Queensland, Endangered Ecological Community under the EPBC Act 1999.

Left: uncontrolled Broad-leaf paspalum ground layer.

Right: ground layer controlled by bush regeneration techniques.

Source: K. Love, 2018.

Our commitment to Integrated Pest Management — a message from our Mayor

In 2013 Council passed an innovative resolution aspiring to stop the use of pesticides in highly frequented public places in order to reduce risk to people, particularly children, and the environment. I am proud that Byron Shire is one of the leading Councils in Australia when it comes to Integrated Pest Management (IPM), in particular reducing the use of chemicals across Council owned and managed land. This IPM Strategy is the result of five years work aimed at minimising pesticide use in our Shire, whilst maximising best practice weed management for our biodiversity rich areas.

As a Council we have been making steady progress to move towards a more chemical-free Byron, investing in steam weeding technology to eliminate the use of herbicides in our towns, villages, parks and high-traffic areas. It's been incredibly successful and well-received by residents and visitors alike. Another example of our innovate approach is using where possible, biological controls on aquatic weeds, which have been highly effective for us.

The 2018 Integrated Pest Management Policy and IPM Strategy 2019–2029 set out our approach to pesticide use and wherever possible, we will avoid it. But we also recognise that Council has a legal requirement to act quickly and responsibly in addressing biosecurity risks under NSW Biosecurity legislation. At times this will require a pesticide to be used to protect Byron Shire, and other parts of our region, from pests identified by the NSW and Australian Governments as having the potential to cause immense damage to our biodiversity, health and infrastructure. Nonetheless, the use of any pesticide will be subject to strict protocols for decision-making described in this Strategy, and in keeping with Council's Pesticide Notification Plan.

As we move towards a future of changing climate and new challenges to our environment, Byron Shire Council is committed to on-going research, trials of new technologies and innovative methods as they become available. Our management of pests will continue to evolve to encompass all the tools at our disposal such as bio-controls, turf management and restoration techniques that facilitate resilience. The integration of these technologies will take us into ground-breaking territory, un-tried by any other Council in Australia. It will require education (as it is knowledge-intensive) and time, in order to trial and experiment.

Implementing these actions will lead us into a bold new future where pesticides may become obsolete. I look forward to that day.



Simon Richardson



Executive summary

In Australia, pest species and their prevalence cost billions of dollars per year, significantly threatening human health, biodiversity, agriculture and infrastructure. Under changing climatic conditions, pest ranges and their control methods will also change. This means our responses require a new innovative approach encompassing all the tools at our disposal.

In Byron Shire, our biodiversity values are unique and impacts from pests are at a higher risk of diminishing those values. To meet these threats, our underlying principle is to facilitate and increase resilience through timely interventions and ecological restoration techniques.

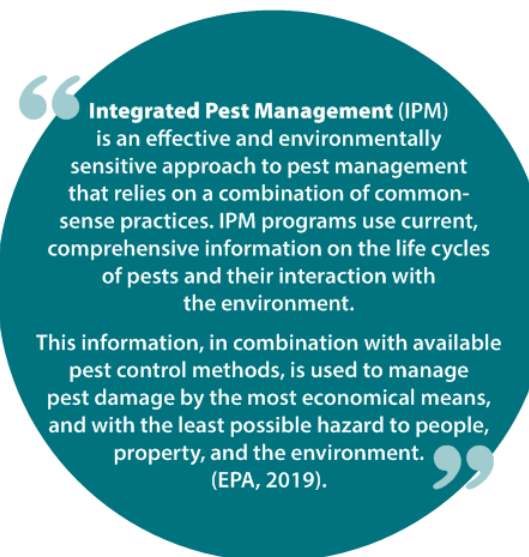
In 2013, Council resolved to develop a Shire-wide Integrated Pest Management Policy and Strategy with an aspiration to

reach the goal of “ceasing the use of all chemical based herbicides and repetitive use of all chemical pesticides in highly frequented, public use areas within 5 years”.

This resulted in a substantial reduction in the use of pesticide across children’s playgrounds, bus shelters, town centres, garden beds, rural roadsides and sports fields. This achievement is significant as it re-defined best practice, considering all known control methods, promoting those with the least potential to cause harm, while delivering the required outcomes.

Council’s Integrated Pest Management (IPM) Strategy 2019–2029, underpinned by Council’s adopted IPM Policy 2018, further delivers on this aspiration by providing specific tools and procedures enabling its execution, while attaining effective pest control on all Council owned and managed land. Our IPM suite of tools, comprises innovations such as specialised turf management, steam weeding, bio-controls and low toxicity selective herbicides. Already integrated into Council practices, their use continues to rise alongside procedures for continuous improvement and clearly defined protocols for when pesticides can be used.

Biosecurity is now a legislated duty for land managers across all land tenures, and is conveyed throughout all levels of government. IPM integration is knowledge based with new innovations in methodology, particularly bio-controls, offering exciting opportunities to reduce our pesticide reliance. Continuing advancements, coupled with sound ecological principles will take our aspiration into new territory, supporting resilience, effective pest control and our Biodiversity values.



Divided into three parts, the IPM Strategy:

- 1 Provides information on the new legislative requirements, planning context and current practice. It investigates and presents the current science regarding invasive species, herbicide resistance, climate and elevated CO₂.
- 2 Describes the development of the IPM Strategy, Councils integrated improvements in practice, IPM Framework and methodology alongside available control methods to date.
- 3 Delivers tools supporting IPM including Council’s pesticide exclusion and minimisation zone mapping, Pesticide Use Decision Tree, Pesticide Notification Plan and Invasive Plant Species List.

Management actions further outline how and when Council will deliver each goal alongside the reporting mechanisms that support continuous improvement.

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Types of pesticides:

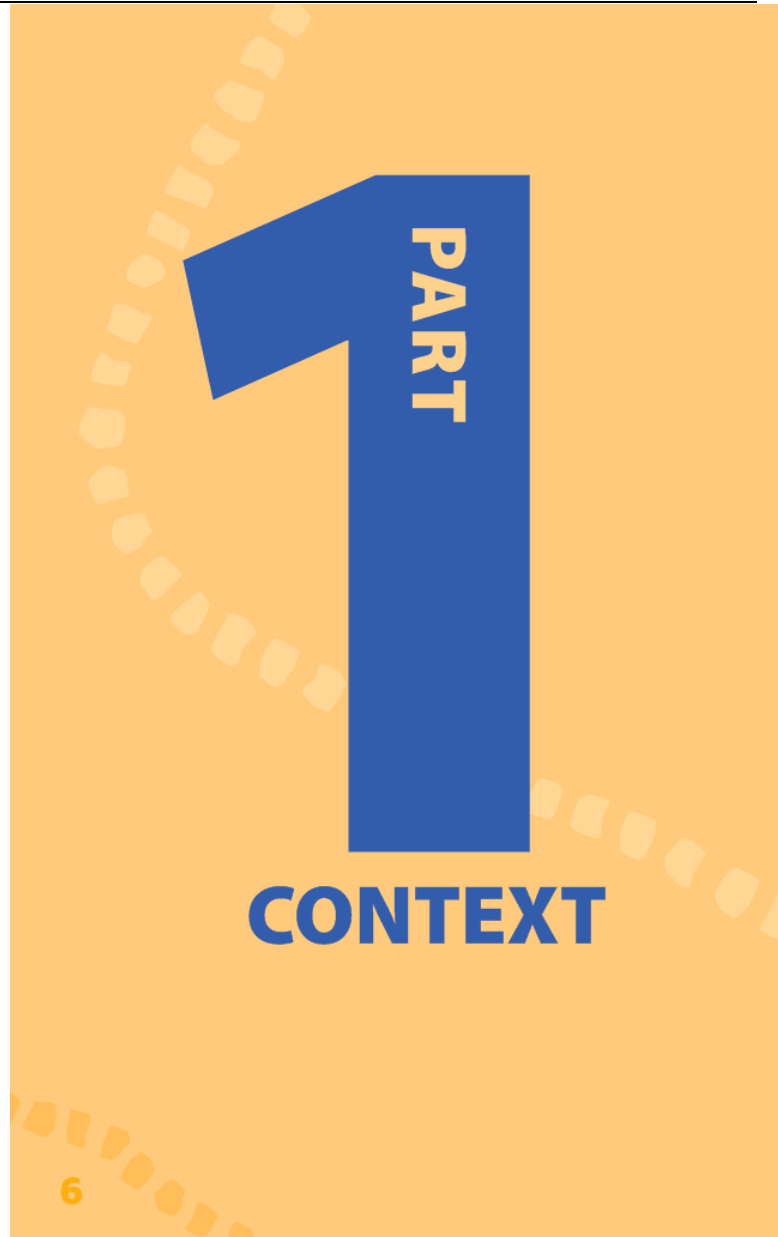
- Insecticides—insects
- Herbicides—plants
- Rodenticides—rats and mice
- Fungicides—fungi
- Larvicides—larvae

Within the IPM Policy a pesticide is defined as:

An agricultural chemical substance as defined by the Agricultural and Veterinary Chemicals Code Act 1994. This definition covers bactericides, baits, fungicides, herbicides, insecticides, lures, rodenticides and repellents.

Pesticides are used in commercial, domestic, urban and rural environments (*Pesticides Act 1999*). A pesticide may be natural or synthetically produced.

For the purposes of this Policy, a pesticide continues to be regarded as a pesticide even when it is mixed with some other substance (whether or not the other substance is a pesticide). Products that are pesticidal in their action but are entirely based on biological agents not harmful to humans are not considered a pesticide for the purposes of this policy.



A pest is defined as a species, strain or biotype of a plant or animal, or a disease agent that has the potential to cause, either directly or indirectly, harm to (a) human, animal or plant health or (b) the environment (*Biosecurity Act 2015*).



Introduction

Pest species and their impacts are widely acknowledged as a significant threat to human health, biodiversity, agriculture and infrastructure. In Australia, it is estimated that the annual cost to the economy from the impact of weeds is close to \$5 billion (McLeod, 2018) and from pest animals more than \$1 billion (NRC, 2016). The effective on-going management of pest species requires a strong commitment across all tiers of government and community. It includes all who manage land, aquatic environments, or known pathways for species movements.

In 2012, the Intergovernmental Agreement on Biosecurity developed a set of principles informing the *Australian Weeds Strategy* (2017–2027). These principles also underpin the NSW *Biosecurity Act 2015* and Biosecurity Regulation 2017. Repealing 14 pieces of legislation and enacted in July 2017, the Act is implemented at a regional level by the *Local Land Services North Coast Regional Strategic Weed Management Plan* (2017–2022) and *North Coast Regional Strategic Pest Animal Management Plan* (2018–2023).

The Intergovernmental principles are further reflected within the *NSW Invasive Species Plan* (2018–2021) and the *NSW Biosecurity Strategy* (2013–2021) which outline the responsibilities and key deliverables for invasive species management state-wide. Local Control Authorities (Rous County Council) are responsible for priority weed control programs including enforcement, inspections and training. While Byron Shire Council (Council) has an obligation under the *Local Land Services Act 2013* and *Companion Animals Act 1993* to provide pest control programs across land they own, occupy or manage.

Given the new legislative requirements it is timely that in 2018, Council adopted its Integrated Pest Management Policy (Policy) outlining the goals and objectives for effective and efficient control of pests on Council owned and managed land. Building on the original resolution (13–621) from November 2013, and five years of implementation, this Integrated Pest Management Strategy (Strategy) is based on the principle of continuous improvement while delivering the objectives of effective pest management under the new biosecurity, and recent biodiversity conservation legislation.

Byron Shire Council

Mission: To continuously improve upon and integrate new pest management technologies on Council owned and managed land that increase and facilitate resilience while maintaining human health, biosecurity, infrastructure and our unique biodiversity values across the Shire.

Purpose and scope

This Strategy outlines priority actions, and provides tools to deliver the objectives of the Integrated Pest Management Policy.

It applies to all Council owned or managed land including Community land, Operational Land and Crown Land where Council acts as Trust Manager.

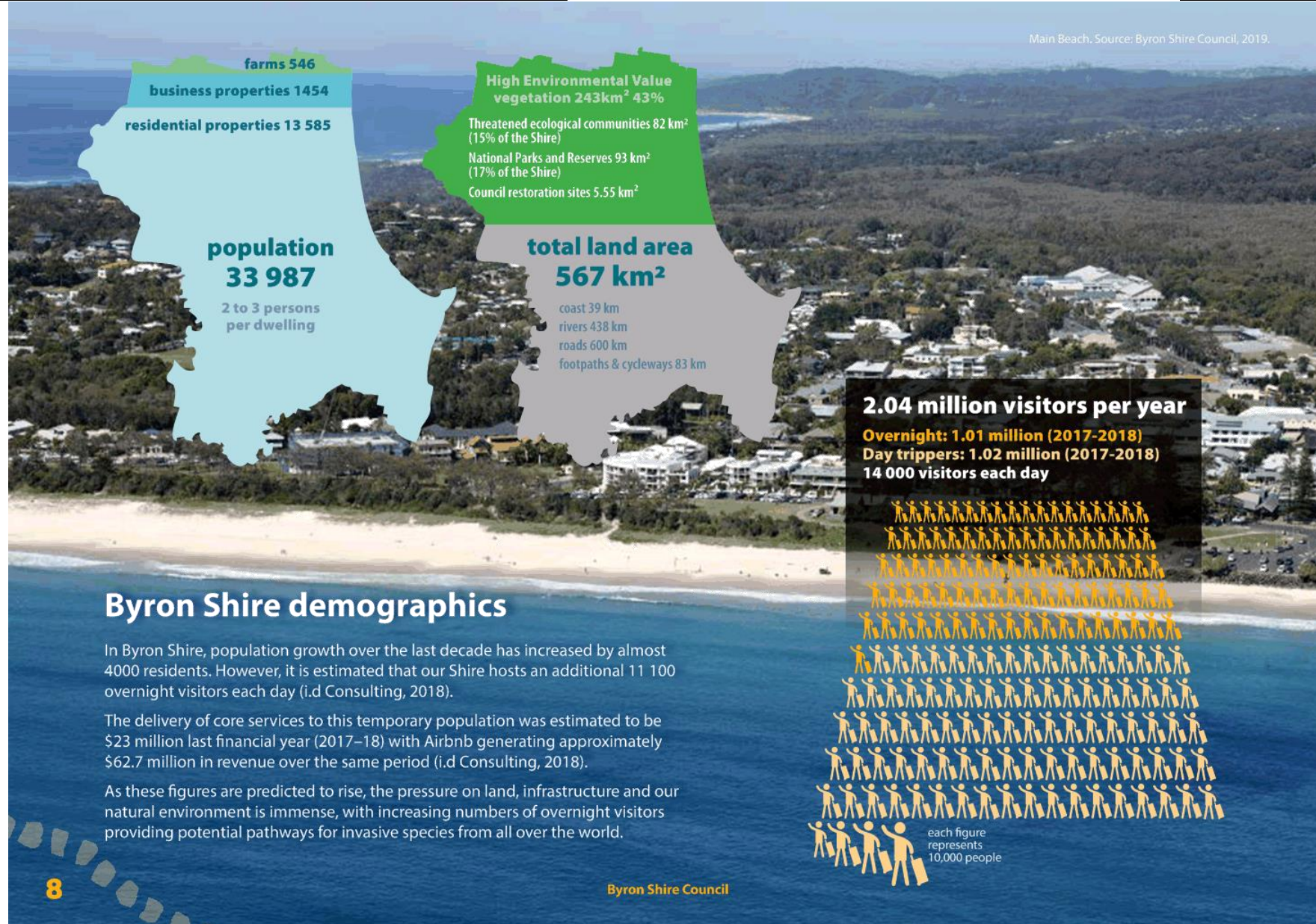
Once adopted, the Strategy will commence and be deliverable through the outlined actions on a continuous improvement basis for ten years, with a review at five years.

Outside of the scope of the IPM Strategy:

- private land, Commonwealth and all other lands, including Crown Land where Council is not acting as the Trust Manager
- marine pests
- native (nuisance) plants and animals
- domestic or public health pests (such as midges, mosquitoes, rodents, cockroaches)
- pathogens of humans, domestic animals or livestock.

Strategy structure





Biodiversity and infrastructure protection — current practices

Invasive pests are ranked as the number one threat to species listed under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*, affecting the largest number (82%) of Australian threatened taxa (Kearney et al. 2018) and are the main cause of extinction for 22 of the 27 recorded extinct mammals (Low, 2017). Yet biosecurity for the environment has only very recently gained equal standing alongside plant and animal biosecurity (Craik et al. 2017), previously only driven by agriculture and trade.

Comprising 15% of the Shire, Threatened Ecological Communities (TECs) are defined and protected under federal and state legislation. These communities (nine listed at state level as Endangered and two listed federally as Critically Endangered) are at the highest risk of degradation resulting from clearing, altered land use and introduced pest invasions.

Council's bush regeneration team currently manage restoration sites of which 50% are TECs. They largely comprise Crown Land sites covering 3.35 km² and 2.2 km² of Community and Operational Land.

In addition, our local community volunteers currently include 38 groups contributing works across a range of ecological communities, many of which are TECs. There are 26 locality groups (currently under the auspice of Brunswick Valley Landcare), ten separate incorporated groups and the Byron Shire Chemical Free Landcare Group. Operating on mainly Crown Land sites (e.g. Main Beach dunes), 170 volunteers contribute over 5700 (\$228 000) volunteer hours per annum across 18 km² of the Shire.



Urban, rural and infrastructure pest management

Byron's urban and rural landscape provides infrastructure and services to 15 500 rateable properties and up to 14 000 visitors per day.

Infrastructure maintained by Council incorporates 600 km of roads, 83 km of pathways and cycleways, four sewage treatment plants, numerous playgrounds, parks, public garden beds, bus shelters, four village centres and 23 sports fields.

Following the 2013 Council resolution (13-621), pest control methodologies changed to achieve a major reduction in the use of pesticides use through the application of alternative control methods.

Alternative pest control methods



Biological control

Mechanical control

Manual control

Steam weeding



The principle underlying Council's Integrated Pest Management Strategy is to

increase the ecological resilience of Byron's natural environment by managing pests through a suite of tools and timely interventions.

It is knowledge intensive, requiring a landscape context and systems-based approach. Current best practice will be examined, implemented and monitored on a continuous improvement basis. These actions will require effort and openness to trialling new techniques and further, will challenge what is already accepted and known.

The integration of pest management practices means that each site will need individual evaluation for the best outcome, inclusive of human health, the environment and infrastructure protection.

Climate, elevated CO₂ and invasive species

Human induced activities responsible for altering concentrations of greenhouse gases are now widely accepted as slowing heat loss and altering the basic weather patterns encompassing the earth's climate.

Fluctuations in weather such as increased drought, alterations in temperature, fire and storm frequency and intensity are attributed to a change in climate and specifically, the rise of carbon dioxide (CO₂) concentrations. Current data from CSIRO (2018) indicate that concentrations of CO₂ are higher now than at any time in the past 800 000–20 million years.

Under elevated CO₂, the range of species (native and introduced) will change alongside the control mechanisms surrounding them (Waryszark et al. 2018, Fleming et al. 2017, Fernando et al. 2016, Varanasi et al. 2016, Scott et al. 2014 & Duursma et al. 2013). In terms of pest management, reliance on one type of control under all scenarios is no longer feasible or efficient. Therefore, pest management within Byron Shire must evolve to incorporate the entire tool set available and be relevant from a catchment level down. Each member of the community will be involved in a Shire wide response as the vectors for spread will further increase under climatic change events such as increased flooding or storms.

The NSW government states that climate change is the greatest long-term threat to biodiversity (DECCW, 2010). As a key threatening process under both the NSW *Biodiversity Conservation Act 2016* and the *Environment Protection and Biodiversity Conservation Act 1999*, pest species will further contribute to a change in "the structure, composition and function of ecosystems". It is therefore crucial that pest management actions be designed to increase resilience through restoration principles (OEH, 2018 & SERA, 2017) and be applied to all Council owned and managed land regardless of function.



Guidance from the Invasive Species Council

The Invasive Species Council is a not-for-profit charitable organisation dedicated to keeping Australian biodiversity safe from weeds, feral animals and other invaders.

In the recent report *Protect Australia from Deadly Invasive Species* (2018), the Invasive Species Council states:

"We cannot save species and ecological communities without abating the major causes of decline".

The report identifies a need for stronger environmental biosecurity measures at a national level, and outlines six priorities. Priorities 3, 4 and 5 are considered within this strategy.



- 1 Strengthen biosecurity institutions and capabilities** Boost standards of environmental biosecurity by reforming the institutions delivering biosecurity services and allocating a fair portion of new funding to the endeavour.
- 2 Solve problems through research & innovation (\$55M/5 years)** Commission research to solve Australia's most important environmental biosecurity problems.
- 3 Border door-knockers: prevent new species invading Australia (\$50M/5 years)** Comprehensively identify biosecurity risks to the natural environment and take strong measures to stop harmful new species arriving and establishing in Australia.
- 4 In-country risks: nip invasive species in the bud (\$40M/5 years)** Identify emerging or potential invasive species threats to the natural environment and take action to prevent them becoming serious threats.
- 5 Established invaders: abate Australia's worst invasive threats (\$80M/5 years)** Systematically assess, list and abate the major threats to Australian species and ecological communities.
- 6 Protect islands from invaders (\$5M/5 years)** Protect Australia's islands from invasive species by strengthening biosecurity and prioritising efforts to control and eradicate established invasive species.

Invasive species in Byron Shire

Invasive Plant Species List

In NSW, the newly enacted *Biodiversity Conservation Act 2016* requires assessments that include probable biodiversity outcomes based on the presence of 'High Threat' invasive species.

Dorrough et al. (2018) devised a system to assess 263 invasive plant species and generated a list of 201 plants that are "likely to reduce ecological restoration outcomes". This list formed the basis (cross-referenced with the regional weed species list in the Local Land Services plan (2017–2022) of the Strategy's Invasive Species List (Appendix 1 and on Council's website) while illustrating the *Biosecurity Act 2015* legislative actions.

In addition, species were investigated for current control methodology alongside flowering/fruiting seasons for those specific to Byron Shire. The actions prescribed for certain invasive plant species within the List are therefore based on all recent data available and underpinned by the requirements of the current legislation. [Note: the Invasive Species List is not exhaustive and will be updated as new technologies or species emerge.]

Byron Shire Pest Animal Management Plan

Under the *Biosecurity Act 2015*, pest animals are not defined by species. However, the Local Land Services Plan (2018–2023) lists localised pest animal programs that inform Council's Pest Animal Management Plan 2018–2023 (the Plan).

In Byron Shire, established pest animals include Wild dogs, European red fox, Feral cat, Indian myna, Cane toad and European rabbit.

The plan directs that the impacts of these species should be reduced.

Current control methods and future actions are for trapping and shooting pest animals, and do not include the use of pesticides.

A responsibility to act

With Byron Shire's outstanding biodiversity, high number of Threatened species and Threatened Ecological Communities, it is our responsibility as a community to address threat of invasive species, and align with the principles set at all levels of government.

Recognising the threat is the first step in the abatement of invasive species impacts.

Section 22 of the *Biosecurity Act 2015* (General Biosecurity Duty) states:

"Any person who deals with a biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised."

Overtime, as the impacts of invasive species are reduced, the resilience of the landscape can be expected to increase, and management costs should decrease.

A threatened species: Comb-crested Jacana
(*Irediparra gallinacea*) at West Byron STP.
Source: D. Pearce, 2017.



PART 2

FRAMEWORK

14

Planning context

The implementation of the NSW *Biosecurity Act 2015* is through through Local Land Services Plan's for Weed Management (2017–2022) and Animal Management (2018–2023). These two plans provide detail on the required actions at a regional level and deliver:

- information on Biosecurity Management Tools under the Act
- regional information on specific alert species
- guiding principles for pest management and prioritisation
- pest management categories and goals for individual pest species
- regional actions, Implementation and Key Performance Indicators (KPIs).

As Byron Shire's regulator for weed species listed under the Act, Rous County Council's local priority weed lists (available on their website) outline their invasive species deliverables, driven by the State. Invasive species legislated as Prohibited Matter, Regional Recommended Measures, Biosecurity Zones and Control Orders will be administered by Rous with all others falling into control jurisdiction by land Tenure.

Development of the IPM Strategy

In November 2013, Council passed Resolution 13–621 (the Resolution) to develop a Shire wide IPM Policy and Strategy which established an internal Integrated Pest Management working group and a Draft Byron Shire Integrated Weed Management Strategy. The core aspiration of the Resolution was to

“reach the goal of ceasing the use of all non organic chemical based herbicides and the repetitive use of all non organic chemical pesticides in highly frequented, public use areas within five years”.

In 2018, the Byron Shire IPM Directions Document provided a timely review of Council's progress in the five years following the Resolution with case studies evaluating the successes and impediments encountered. It also defined the terminology used within the Resolution and considered the areas where complete cessation was restricted by either:

1. unacceptable risk to Human Health and Safety or
2. prohibitive cost to maintain the site without decreasing its functional, environmental or aesthetic value.

Byron Shire Council



RISK = HAZARD X EXPOSURE

"A hazard is anything that can cause harm, whereas risk is the potential for a hazard to cause harm".
(Toxicology Education Foundation)

Managing risk is a major driver across all industries alongside the delivery of benefits.

Where a risk is lowered through active responsible management, then the derived benefit may be considered to be worthwhile. Conversely, if the risk is unable to be managed or reduced, then that risk must outweigh the benefit and all associated actions must reflect the risk.

Did you know?

Premised on 'shared responsibility', each owner or manager of land now has a legislative duty to control invasive species.

The result of the Directions Document was a refined pathway towards an Integrated Pest Management Policy that considered and consulted across community while aligning with the new legislative requirements. Underpinned by the continuous improvement principle, the Policy was adopted by Council in August 2018 (Resolution 18-565) with three clear objectives for implementation within this Strategy.

IPM Policy Objectives

Objective 1 Provide guidance for the development of an Integrated Pest Management Strategy (IPM Strategy) that will optimise efficient and effective resolution of pest problems while avoiding adverse impacts upon human health and the environment.

Objective 2 Establish decision-making tools to underpin and inform Integrated Pest Management. These tools include (but are not limited to):

- (i) a digital map — pesticide exclusion/minimisation zones
- (ii) a set of protocols — Managers Pesticide Use Decision Tree.

Objective 3 Provide impetus for Council to build, improve and maintain employee and contractor knowledge and skills for selecting the lowest risk methodologies, including but not exclusively applying non-pesticide methods, for attaining the desired pest management outcome on Council-managed land.





Innovations to date

As illustrated earlier, the on-going use of the steam weeder/cleaner maintains all children's playgrounds and CBD areas.

In addition, the following new strategies have been implemented:

- the introduction of plant species selection that outcompete invasive species and require little maintenance
- the installation of garden bed edging and an improved mulching regime that reduce the ability of invasive species to survive
- staff training in timing of control mechanisms to enable budgetary constraints.

Aspirations for future management include the gradual introduction of soft fall rubber in playgrounds which require minimal maintenance and limit pest species growth.

On sports fields, there have been improved practices in turf management such as soil aeration, fertilisation and irrigation.

These practices have resulted in all Byron's sports fields being pesticide free except our Premier Grade A playing fields.

While our high quality playing surfaces still require occasional pest control, only the lowest hazard selective pesticides available are used. If and when required, the formulations are species-specific with little or no impact on the desirable turf.

Did you know ?

The use of glyphosate has been eliminated on all of Byron's sports fields and is only rarely used around infrastructure such as fence posts.

Small Steps to Healthier Roadsides

The Goonengerry Landcare model promotes the gradual replacement of invasive weeds with suitable native species on rural roadsides, reducing both financial and environmental impacts over time. Adjacent landowners have volunteered to improve their roadside vegetation utilising the *National Standards for Ecological Restoration* (2017) techniques.

Cavanbah Grade A Sports field.
Source: A. Erskine, 2018.

Roadside maintenance

After the Resolution in 2013, pesticide use for the maintenance of roadside vegetation was considerably reduced through the replacement of broad scale herbicide control with a program of selective slashing (along rural roadsides) and brush cutting (around fences and guard rail). This change in methodology has had varying outcomes resulting in increased:

- pot holes due to encroaching weed vegetation (which undermines the road surface)
- diversity of invasive species along roadsides and in culverts
- invasive species dispersal due to mechanical removal and spread
- cost of maintaining the roadside maintenance program.

While the benefit of this change in methodology has reduced pesticide use and the risk of exposure to herbicide, safety and infrastructure maintenance costs and risks have increased. In addition, the enactment of the *Biosecurity Act 2015* and Biosecurity Regulation 2017 now requires a need for additional management actions to meet the new legislative requirements. Weed management on roads and road reserves within Council responsibility falls under

both

NSW Biosecurity Act 2015, Schedule 1 Part 3, Duty to control weeds on roads

- 1 A biosecurity duty imposed on an occupier of land under Part 3 to prevent, eliminate or minimise any biosecurity risk posed or likely to be posed by weeds on that land extends to weeds on:
 - a Any part of a road that intersects the land, not being part of the road that is fenced on both sides, and
 - b The half of the width of any part of a road that forms part of the boundary of the land, not being a part of the road that is fenced on both sides, and
 - c Any part of a road that forms part of the boundary of the land, being part of the road that is not fenced on the side forming part of the boundary but is fenced on the other side.

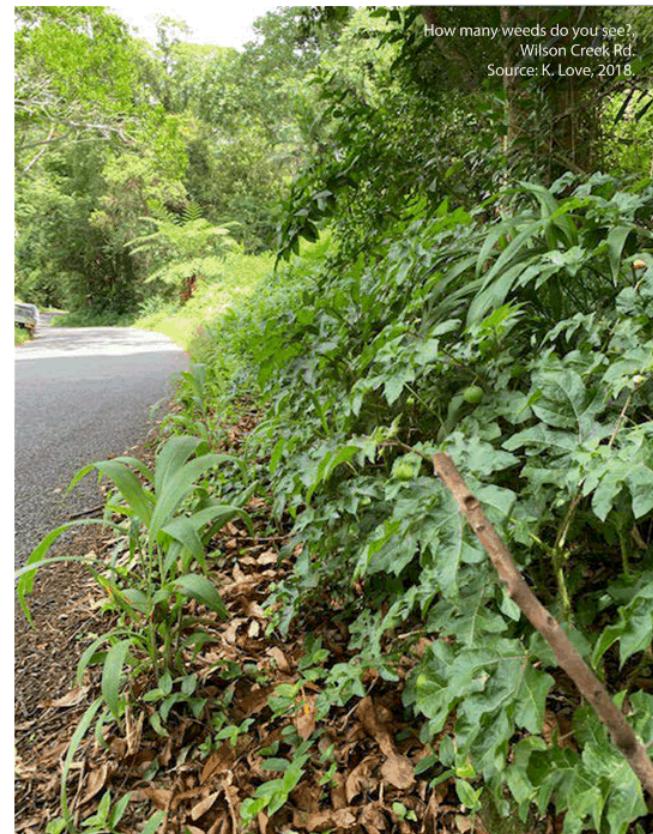
and

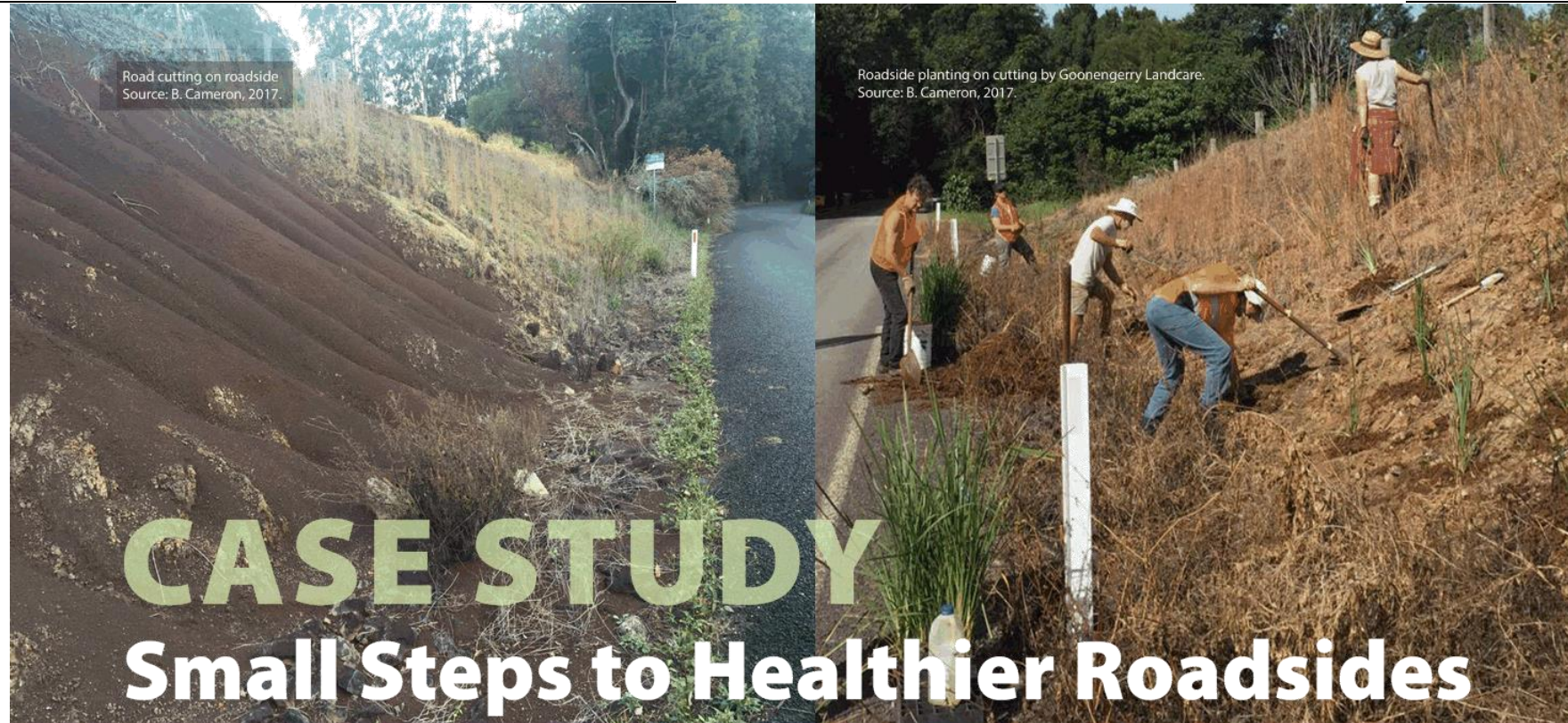
Roads Act 1993 Part 9, Division 3: Section 142

- 1 A person who has the right to the control, use or benefit of a structure or work in, on or over a public road:
 - a must maintain the structure or work in a satisfactory state of repair, and
 - b in the case of a structure (such as grating or inspection cover) located on the surface of the road, must ensure that the structure is kept flush with the surrounding road surface are so maintained as to facilitate the smooth passage of traffic along the road, and the person is, by this section, empowered to do so accordingly.

Future aspirations for roadside maintenance include specialised staff training to recognise and encourage desirable low stature species that out compete undesirable high stature species over the long-term.

This type of methodology will gradually reduce the maintenance required, allowing for timely interventions elsewhere while meeting legislative and financial obligations.





In 2017, Goonengerry Landcare Group approached Council to initiate a partnership in order to rehabilitate a section of their neighbouring roadside, which had undergone significant roadworks including:

- 1 modification of the headwater of Byrangerry Creek (photos top of page 19)
- 2 a steep bank cutting to enable the road up-grade and associated drainage (photo above left).

However, germination of the grass seed failed, leading to soil erosion, weed infestation and clogging of the table drain. This resulted in an increase in exotic species, siltation across the road and slip and subsidence on adjacent properties and road pavements.

Working in conjunction with Council, Essential Energy and the Environmental Trust, Goonengerry Landcare initiated and completed a planting in 2017 along the roadside and at the headwater of Byrangerry Creek (photo above right). Utilising restoration techniques, they have maintained the roadside planting, successfully reducing maintenance and the use of herbicide over time.



Planting

In some instances, plantings are used to control and or suppress exotic species invasion in areas that have:

- a high level of disturbance such as road works, cut and fill or vegetation denuding
- safety implications due to their location such as roundabouts or nature strips
- circumstances require an infill planting in order to replace vegetation that has been taken away such as camphor clearing along riparian zones or
- infrastructure that incorporates water sensitive urban design such as stormwater drainage or erosion control.

The methodology for planting in such circumstances can be found on Council's website within the guidelines for preparing a [Vegetation Management Plan](#). Good practice planting procedures include:

1. species selection of local indigenous native species that reflect the plant community closest to or expected to have formed originally at the site
2. ensuring that all plant stock is derived from local provenance seedling stock wherever possible
3. the appropriate preparation of planting areas, particularly the control of exotic species at, and close to the site
4. occurrence of planting only when there is sufficient soil moisture, or where resources allow for additional watering
5. allocation of sufficient resources to control weeds until a sufficient canopy has established.

Further information on species selection is available as part of the [National Standards for Ecological Restoration](#) and species specific information, such as availability of planting stock can be found in the [Native Species Planting Guide](#).

IPM Methodology

"Integrated Pest Management (IPM) is an effective and environmentally sensitive approach to pest management that relies on a combination of commonsense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment". (EPA, 2019).

Management decisions regarding control methods for a particular pest require a four-tiered approach.

1 Set action thresholds

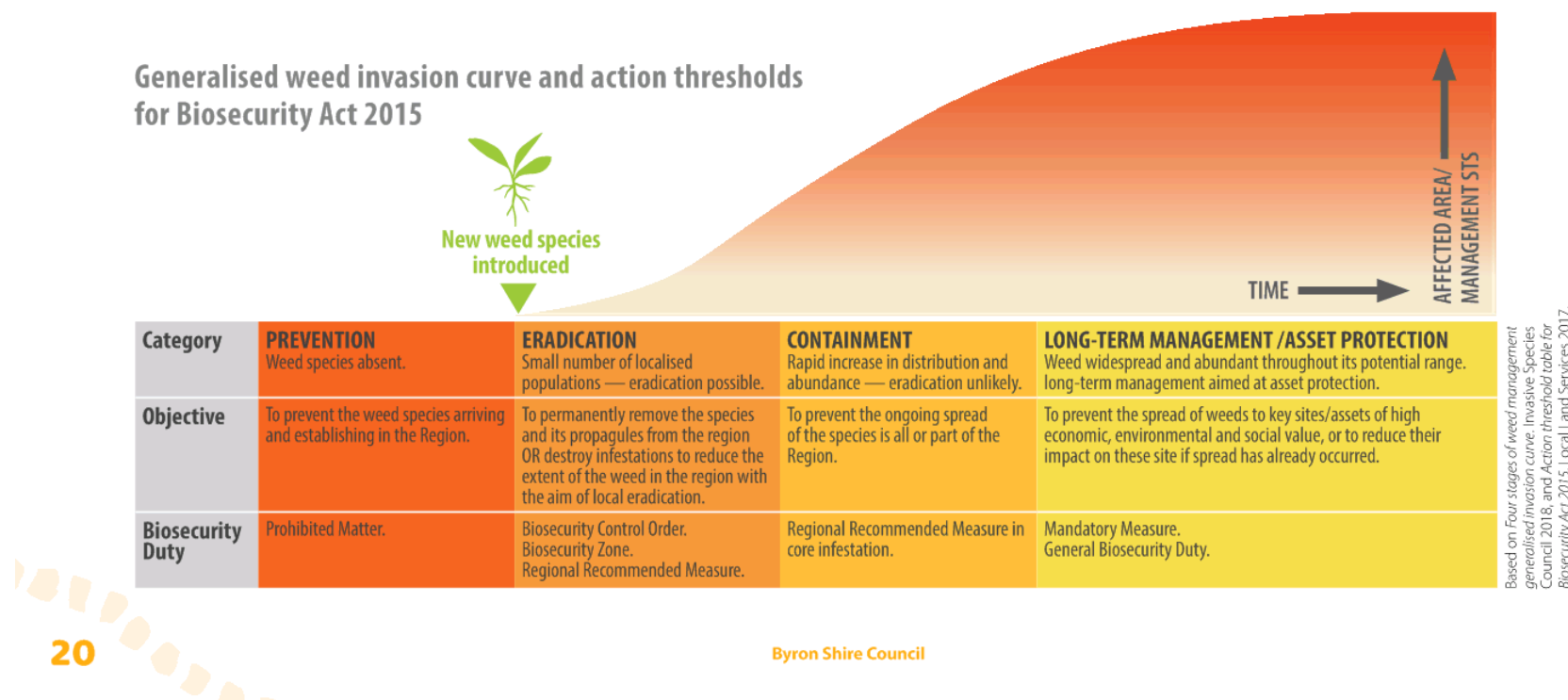
These are points at which pest control management must be undertaken, or its objectives changed. They will vary depending upon the pest species and its location.

Based on the generalised invasion curve (below), action thresholds are listed in the Local Land Services Plan (2017-2022) by species, regardless of land tenure. These thresholds may differ depending

on whether the pest has a directive under legislation or if it is a risk to public health and safety or infrastructure. Once the appropriate action is decided, control of the pest should be timely, efficient and monitored.

As Rous County Council regulates the Byron Shire local government area, certain weed species are notifiable to them for control (Rous, 2019). For example, where a species is listed for prevention or eradication, notification and enforcement applies by Rous.

Generalised weed invasion curve and action thresholds for Biosecurity Act 2015



Three plant species listed for containment include Giant devils fig, Green cestrum and Yellow bells (see Appendix 1) which are widespread on rural roads within the Shire. These pest plants are targeted by Rous County Council on a regular basis with notifications appearing on their [website](#) of the location, species and control methods used.

2 Prevention

The first line of defence for IPM is prevention of the pest. Early detection and intervention is the most cost and resource effective control method available and implemented by:

- **correct identification of the pest threat** then immediate establishment of protocols to limit its spread and the conditions it requires to survive such as; ensuring wash down procedures, complete removal of the species from equipment or sensitive areas
- **immediate action** by the control authority (where necessary) or the land manager to eradicate or control the threat (e.g. Fire ants, Prohibited Matter or Control Order plants)
- **education and training** to recognise the threat and the varying control mechanisms available for its control.

3 Identify and monitor

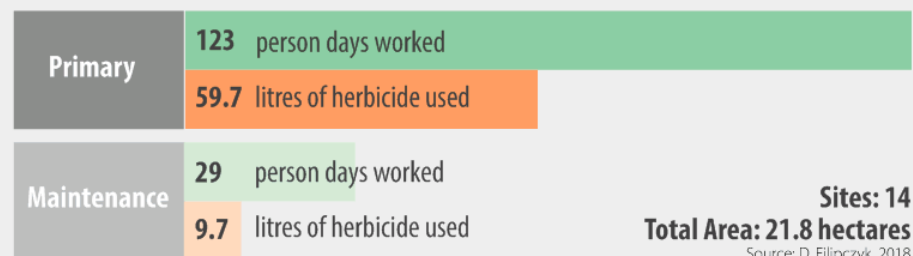
Correct identification and control methods are vital within IPM

Tools are available online at [Department of Primary Industries](#) along with the Weedwise app. Providing information for over 300 weed species in NSW including:

- legislative requirements
- pictures and descriptions
- impacts
- the control methods available
- current information on pest animals and insects.

Council's Invasive Plant Species List (Appendix 1 and on the website) provides further information on certain invasive plants flowering and seeding regimes, associated legislation and the current control methods available. Monitoring the occurrence of pest species is vital to ensure containment and appraisal of action thresholds of biosecurity risks.

Council bush regeneration sites brought to maintenance level after one year



4 Evaluate and control

Once the pest requires action, and control is necessary, site specific evaluation takes place and wherever possible. The most effective known control method with the least risk to human health and the environment is employed.

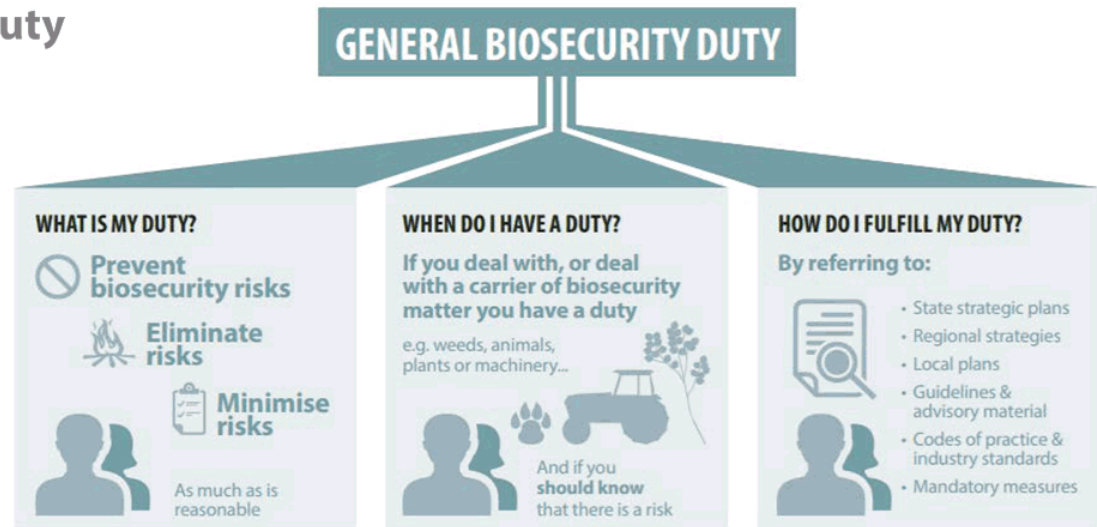
The appropriate method is determined by utilising the IPM tool box and if necessary, Council's Pesticide Use Decision Tree (page 29). Management actions are then continuously monitored, updated or changed as further information becomes available. Pesticide usage and reporting mechanisms are then employed for outcome assessments and will include adaptive management options based on results.

Council's bush regeneration team continuously monitor both time and herbicide use (required under the Pesticide Regulation 2017) across their sites, aiming to reduce them to a maintenance level program. In this way, the decrease of herbicide use is measurable (graph above) and on-going. For example, over the last financial year, 14 of their 44 sites had a reduction in herbicide usage of 84%, where it will be maintained and further diminished over time.

General Biosecurity Duty

The management of pest species is recognised federally and, in NSW, the *Biosecurity Act 2015* is administered by the NSW Department of Primary Industries, with regional plans delivered by Local Land Services.

The common message across all levels of government is that pest management is a shared responsibility regardless of land tenure and is premised on risk. In keeping with shared community responsibility is the legally enforceable General Biosecurity Duty (GBD), a requirement under the Act. Further, direction within the Local Land Services Plan (2017-2022) states that "any species that poses a biosecurity risk is subject to the GBD".



At a local level, Byron Shire hosts:

- 12 known Weeds of National Significance (WoNS), listed as "Mandatory Measure" for control
- six pest vertebrate species
- one invasive plant categorised in a Biosecurity zone— Bitou bush (*Chrysanthemoides monilifera* subsp. *rotundata*)
- one invasive plant under a Control Order: Tropical soda apple (*Solanum viarum*).

While certain invasive plant species are notifiable to Rous County Council (i.e. National Alert, Prohibited Matter, Control Order, Regional Recommended Measures and Biosecurity zones), there are in excess of 250 environmental weeds specific to Byron Shire that pose a direct threat to Biodiversity under the *Biodiversity Conservation Act 2016*. In addition, our Shire hosts six pest vertebrate species subject to requirements under the *Biosecurity Act 2015* and the *Local Land Services Act 2013* (five listed as Threatening Processes under the *Biodiversity Conservation Act 2016*), currently managed by Council's Pest Animal Management Plan (2018-2023).

Weeds of National Significance (WoNS):

State objective – Asset Protection – Mandatory Measure (Division 8, Clause 33, Biosecurity Regulation 2017)

A person must not move, sell or import into the State.



Methods of control

With herbicide resistance on the rise across the agricultural industry world wide, current science indicates that escalating CO₂ will result in some weed species increasing their tolerance to herbicide control (Storrie, A. 2018, Waryszak et al. 2018, Fernando et al. 2016 & Varanasi et al. 2016). While the majority of herbicide resistant species occur in cropping and agriculture, there are a growing number of grass species on roadsides that are resistant to up to four different herbicide Modes of Action (see page 22) groups (Storrie, 2018). It is therefore evident, that integration across the entire range of control methods will be necessary to face rising CO₂, climatic disruptions, species range alterations and ecosystem service adaptations into the future.

Did you know?

Byron Shire's Chemical-Free Landcare Group currently manages a Crown Land site south of the Surf Life Saving Club in Brunswick Heads.

Established in May 2010, the group has significantly reduced Bitou bush and Coastal tea-tree cover utilising manual control. This group is to be applauded for their long-term commitment and provides an example of what can be accomplished by those in our community motivated to succeed with alternative methods.



Manual control

Methods include:

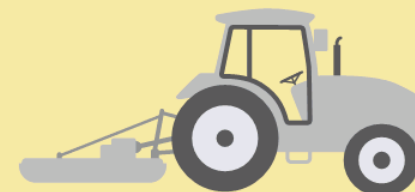
- **complete removal or extraction** used successfully on juvenile Camphor laurel, as well as Lantana, Bitou bush, Mistflower, Crofton weed, Tobacco bush, Slash pine, Climbing nightshade, Coral berry, Passionfruit sp, Siratro, Morning glory, Privet and some grasses (see Appendix 1 for scientific names)
- **cutting to reduce extent or seeding** may be used on Groundsel and some vines — success varies depending on the location and level of infestation
- **solarisation** using physical barriers such as black plastic or woven weed mat to exclude sunlight, heating the soil and preventing or controlling establishment — also used for hard to control weeds such as Madeira vine and Syngonium where the weed is collected and covered in black plastic which 'cooks' the vegetative matter over time.

Effective manual control requires specialised knowledge of plant ecology and root type, seed viability and dispersal, growing season and location.

The use of manual controls over the last five years have shown that while some species may be completely removed successfully, it takes a long-term commitment in order to be effective in containment or eradication. Knowledge of seed viability and seeding regimes for specific species is required, as well as methods stimulating seed bank germination to exhaust it (heat, smoke etc.) inhibiting its ability to reproduce.

Mechanical control

In Byron Shire, regimes of slashing or mowing/brush cutting are mainly used to control grasses and some small stature herbs or forbs. However this control method requires on-going repeated treatments as it does not eliminate the weed, only its biomass.



Herbicides

Defined by their Mode of Action (MOA), all herbicides work differently in the way they act upon plants, animals, the soil and in water. With some herbicides only working under specific conditions in conjunction with other additives. Each MOA is grouped together, so where you see "Group B Herbicide" on different labels, the MOA is the same for all herbicides in that group.



Group **B** Herbicide

Example herbicide group on label

Within the agricultural industry, the recommended methodology to reduce potential for herbicide resistance, is to alternate between different herbicide MOA groups. The increasing resistance to herbicides and their MOA's means we now require a broader range of tools and techniques. Each weed control site must be governed by not only the type of invasive species, but also by a range of contributing factors (e.g. table below) to attain the best result.

On roadsides for example, the dominant issue is Human Health and Safety, where line of sight and road surface deliver safety to all who use the road. However, legislation must also be considered when deciding the best practice methodology for certain weeds. Specific weeds such as Tropical soda apple (*Solanum viarum*) are categorised under a Control Order. All Control Order species have clearly defined legislative requirements which is a ministerial order to be eradicated, destroyed and not be moved.

Simply put, under the *Roads Act 1993* and *Biosecurity Act 2015*, this particular species requires control and there are two methods available — spray or slash. The outcomes are similar, however the risks are not. Under the *Biosecurity Act 2015*, failure to control this particular species comes at a high monetary and environmental cost. Therefore, as the risk of unsuccessful control escalates, the most effective control of this 'control order' species must outweigh the risk.

Did you know?

Herbicides are used in bush regeneration at a steadily decreasing rate until the native vegetation recovers, replacing the weeds.

Example of contributing factors for varying controls of Tropical soda apple

Legislation	Location	Control	Risk	Mitigation	Initial Outcome	Long-term Outcome
Roads Act 1993	Steep bank	Back pack spray	Possible spray-drift to operator and environment.	Control by operator skill and PPE	>90% weed cover decrease	Limits seed dispersal/area controlled. No enforcement action
		Slash	Danger to operator/Seed movement to other areas	Safety first-limited slash/Clean down of machine.	Incomplete control/ Moves weed across road/leaves seed bank	Increase in weed cover over area/ Enforcement action. Cost to Council \$K
Biosecurity Act 2015		Eradicate, destroy, do not move.	Control Order	If not controlled	Enforcement action Cost to Council \$K	Increase in weed cover. Increase in cost to control.

Fire

The use of fire to diminish risk by minimising fuel loads results in a reduction of the intensity, speed and flame height of wildfire (Baker, 2016). Ecological burns are further used to achieve Biodiversity outcomes, particularly in vegetation communities that require fire (to stimulate seed germination and reduce canopy cover) and in threatened species habitat (e.g. Koala and Northern bettong) for species recovery and resilience. Ecological burns can maintain a specific ecological assemblage and the critical habitat values required by endangered species (DES, 2017 & Baker, 2016).

Fire as a management tool for weed control was reviewed for specific weeds in NSW. While findings suggest success in reducing biomass and stimulating seed bank germination, the use of fire should only be used where follow-up with other control methods have sufficient resources (Graham and Taylor, 2018). Case studies of Bitou bush for example, highlight the need to integrate a range of control methods that avoid partial treatments, and treatment sequences that may cause the loss of native species (Lindenmayer et al. 2015, Thomas et al. 2006).

Ecological burn in Threatened Ecological Community, Byron Bay Dwarf Graminoid Clay Heath at Patterson's Hill, Byron Bay.
Source: Byron Shire Council, 2017.



Byron Bay Dwarf Graminoid Clay Heath.
Source: Andy Baker.



Integrated Pest Management Strategy

Section 2 Framework

25



Salvinia bio-control at Water Lily Park.
Source: A. Erskine, 2018 and 2019.

Biological control

As part of a long-term solution, the use of biological control for weeds is effective when used as part of an integrated management approach (CSIRO, 2019). Utilising a plant's natural enemies such as insects, mites, rust or fungus, biological control can reduce the cover and extent of a specific weed to a level that is acceptable, where it can then be easily and cost effectively controlled by other methods.

In 2016, the NSW Environmental Trust invested in researching the use of biological control for five specific environmental weeds:

- Balloon vine (*Cardiospermum grandiflorum*)
- Sea spurge (*Euphorbia paralias*)
- Leaf cactus (*Pereskia aculeate*)
- Broadleaved pepper-tree (*Schinus terebinthifolius*)
- Yellow bell (*Tecoma stans*).

While the CSIRO is currently trialling a new biological control agent for Crofton weed — the rust fungus (*Baeodromus eupatorii*); believed to be the only viable option to reduce Crofton weed densities into the future (CSIRO, 2019). The biological control for a number of WoNS including Lantana, Cats claw creeper, Madeira vine and Bitou bush offer real potential for solutions in terms of IPM, with continuing research aimed at trials for the biological control of Tropical soda apple, Prickly pear species (*Cylindropuntia* and *Opuntia* sp) and Mikania vine (Snow et al., 2018).

At a local level, Council has been controlling Salvinia (*Salvinia molesta*) at Water Lily Park in Ocean Shores, with the Salvinia weevil (*Cyrtobagous salviniae*) since October 2018. Initial coverage of the lake area was 100% Salvinia. After six months of bio-control, Salvinia now covers less than 5% of the lake with native Azolla regenerating. On-going management will require a boom across the lake to trap the remaining Salvinia and contain it for manual removal.

Steam weeding

As a result of the resolution in 2013, Council has been utilising steam cleaning/weeding as a control in all town centres for weeds on footpaths and around most garden beds. In addition, it is also used to steam clean playgrounds, picnic areas and park equipment in conjunction with mulching and hand weeding.

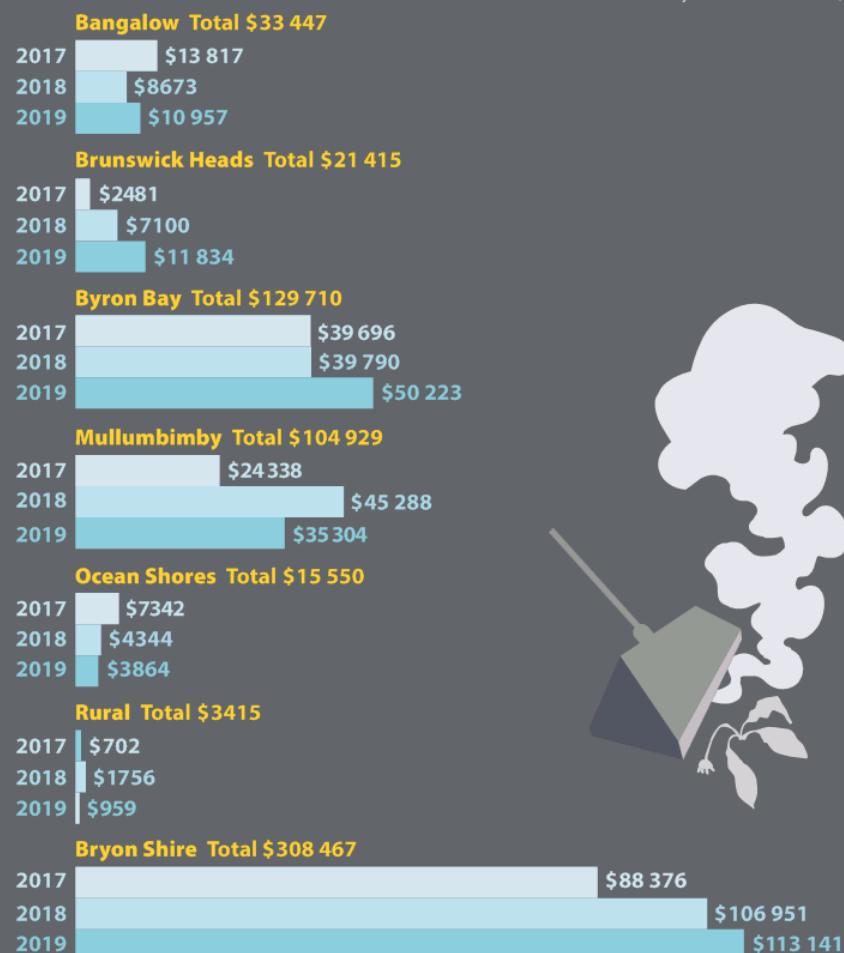
It works by heating water under pressure to 98–103 °C then applying the water to the surface leaves. The heat and force break down the cell structure, killing the crown of the plant within a matter of hours or days. Successful on annuals, this control has little effect on the root system of plants with rhizomes, bulbs or corms, as the boiling water only penetrates to approximately 5 mm below the ground surface. In most situations where the weed crown has died, repeated treatments on a regular basis are necessary to maintain weed free pavements and roadsides.

The initial purchase cost of the steam weeder was \$23 668. The graph on this page shows the cost of operating the steam cleaner/weeder in each financial year, with the increase for 2019 financial year attributed to vehicle hire cost.



Annual cost of steam cleaner/weeder

Source: Byron Shire Council, 2019.





1 Pesticide exclusion and minimisation zones

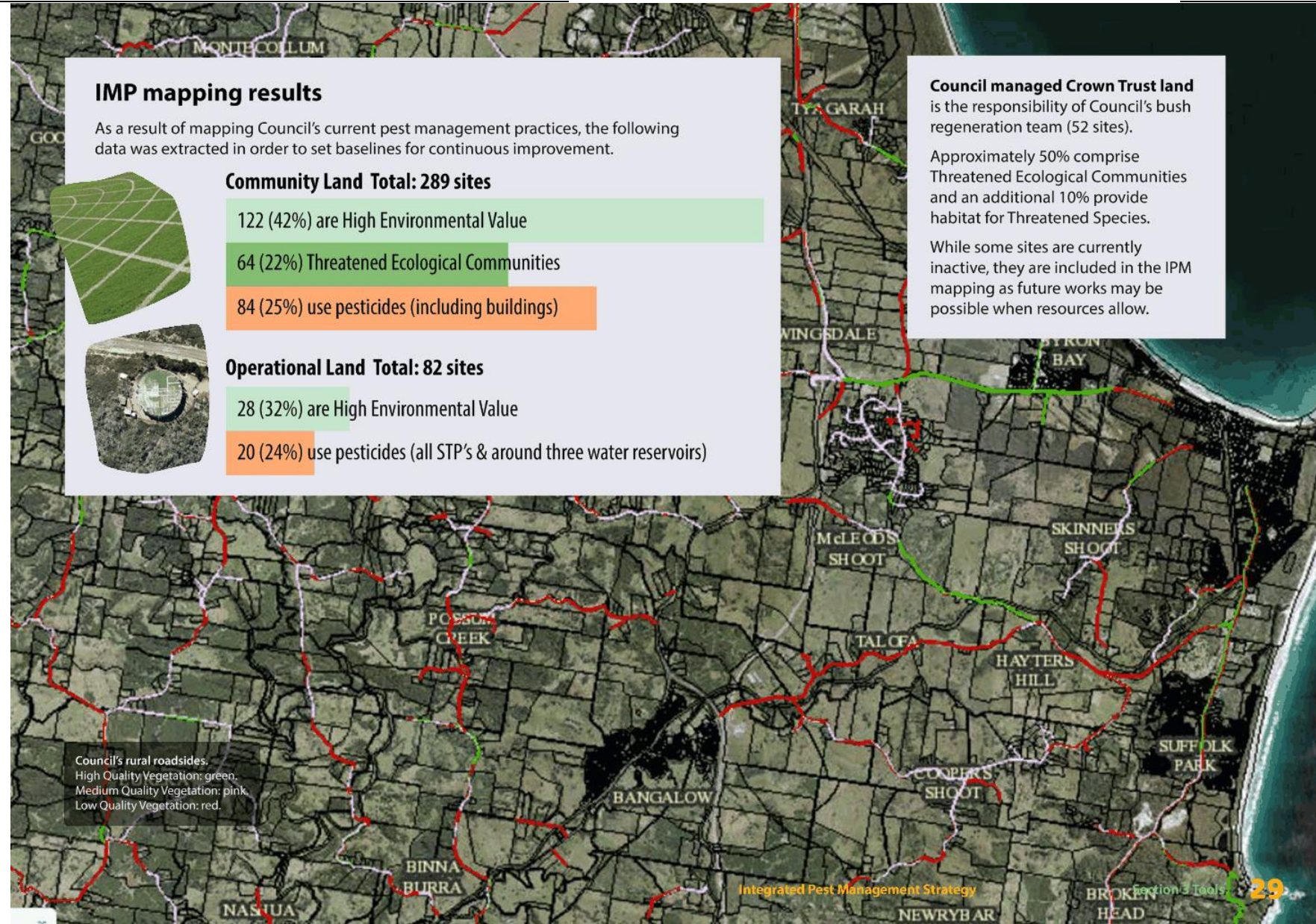
Objective 2 (i) of Council's IPM Policy is to create a digital map of pesticide exclusion and minimisation zones. Current pest management practices on Council owned and managed land informed the criteria for the zones thereby creating the baseline data sets for continuous improvement. All identified land (430 sites) including Operational, Community and Crown Land (where Council act as Trust Manager) are now within Council's mapping program.

Information available to the public on request includes:

- land type — Operational, Community or Crown Land
- Pesticides Zones — exclusion or minimisation.

Land tenure caveat

Due to the newly enacted *Crown Land Management Act 2016*, the future of Crown Lands where Council is the existing Trust Manager is under review. Consequently, the current IPM mapping (2018) only includes Crown Land actively managed as bush regeneration sites (52 sites), with all other Crown Reserves under Council management excluded. In addition, the sites identified as Crown Land regeneration sites within the IPM mapping have a disclaimer regarding the possibility of future tenure change. Further, community groups on Crown Land are excluded from the IPM mapping, as they have individual agreements with Crown Lands and therefore lie outside of Council jurisdiction.



2 Pesticide Use Decision Tree

As defined in Council's IPM Policy, Objective 2 (ii) was to develop "a set of protocols enabling the use of pesticide in a Pesticide Exclusion

Zone in the event of an emergency or where it is deemed necessary to meet legislative or other obligations". The Pesticide Use Decision Tree includes criteria to enable transparency in the decision process with clearly defined pathways that must be adhered to for any change in current best practice methodology.

3 Pesticide Use Notification Plan

Byron Shire Council developed a Pesticide Use Notification Plan in April 2018. This is a requirement of the NSW Government Pesticides Regulation 2017 (Part 5, Division 2).

The Pesticide Use Notification Plan sets out the requirements under the Regulation for notification of pesticide use. It further defines where, when and how Council will notify the public and what type of pesticides will be used and where.

The information can be found on our [website](#) and will be updated regularly.

Chemical Sensitive Register

Certified organic farmers, and residents who are sensitive to chemical herbicides can apply to be placed on Council's Chemical Sensitive Register.

Details will be kept confidential and only used for notifying applicants when proposed herbicide use will occur. Applications for the register can be found on Council's website.

4 Rous County Council

As Byron Shire's regulator, Rous County Council (Rous) base their specific species actions on the Local Land Services Management Plan and will respond to "High Risk" (Prevent) and "High Priority" (Eradicate) weed incursions depending on the risk.

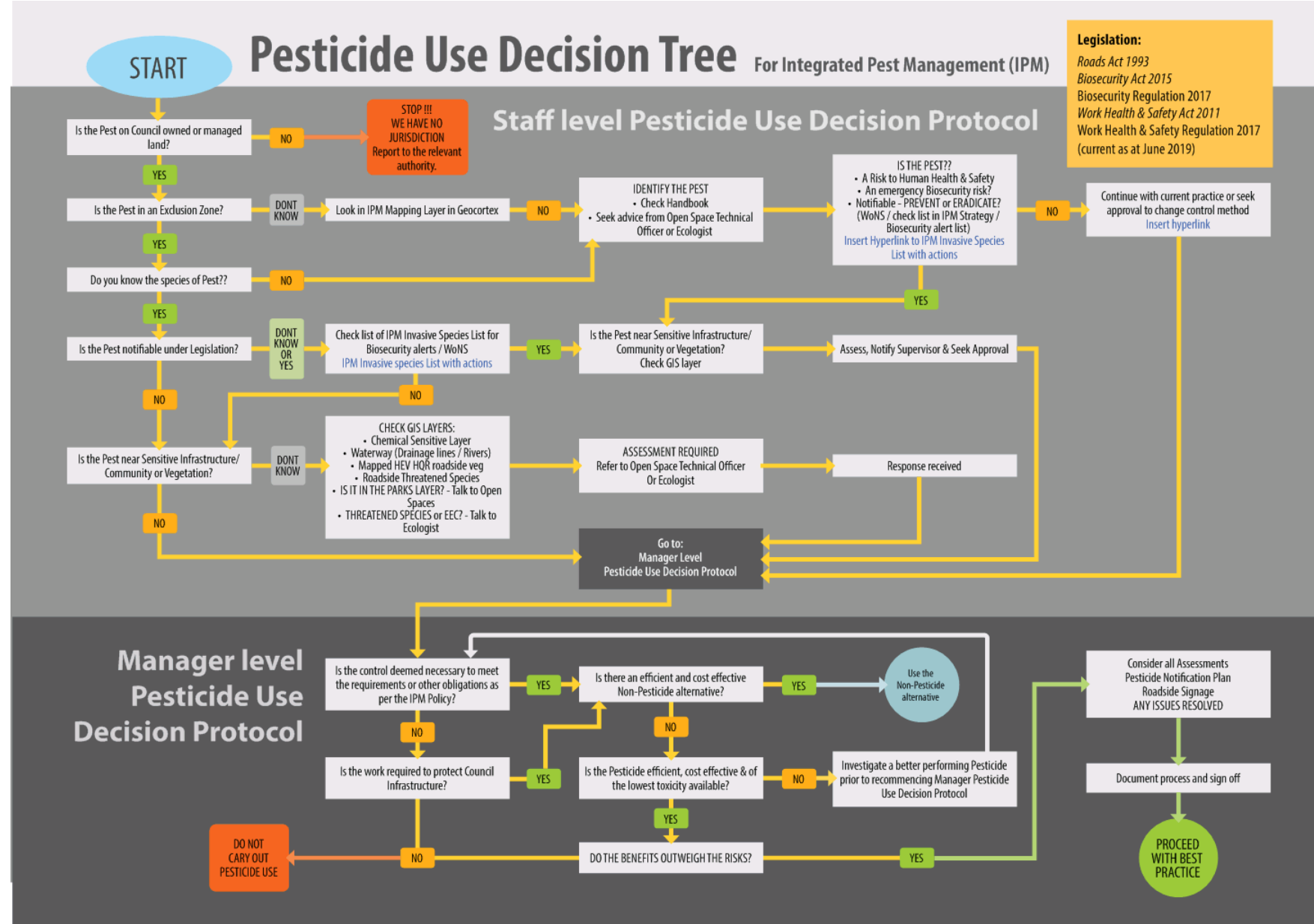
Rous County Council actions for categorised pest species <small>Source: Rous County Council, 2019</small>				
	Prevent	Eradicate	Contain	Asset Protection
Category	High risk weeds – not currently present locally	High priority – very limited distribution but significant biosecurity risk	Priority – present in large numbers and or minor biosecurity risk	Present in large numbers where long-term control is not practicable but key assets should be protected. Use of Bio-control programs considered.
Biosecurity Act tool	Prohibited Matter	Control Order & Mandatory Measure	Biosecurity Zone & Mandatory Measure	Mandatory Measure & WoNS.

Those at the highest level of risk are species not currently present in our local region or if present, are very limited in distribution. Elimination is therefore an achievable target and practicable over the long term.

Those species listed in containment level are regulated by Rous as well as those within a biosecurity zone. Biosecurity Zone weeds are where the species must be eradicated from the land otherwise penalties and fines apply.

On roadsides, Rous officers are controlling priority species specific to our region (table right) with notifications and herbicide use found on their [website](#).

Weed species to be controlled on roadside	
Asparagus fern	<i>Asparagus virgatus</i>
Bitou bush	<i>Chrysanthemoides monilifera</i> subsp. <i>rotundata</i>
Black locust	<i>Robinia pseudoacacia</i>
Broad-leaf pepper tree	<i>Schinus terebinthifolius</i>
Chinese celtis	<i>Celtis sinensis</i>
Chinese tallow tree	<i>Triadica sebifera</i>
Cockscomb coral tree	<i>Erythrina crista-galli</i>
Devil's fig	<i>Solanum torvum</i>
Giant devil's fig	<i>Solanum chryotrichum</i>
Giant reed	<i>Arundo donax</i>
Glory lily	<i>Gloriosa superba</i>
Green cestrum	<i>Cestrum parqui</i>
Groundsel bush	<i>Baccharis halimifolia</i>
Honey locust	<i>Gleditsia triacanthos</i>
Kudzu	<i>Pueraria lobata</i>
Lead tree	<i>Leucaena leucocephala</i>
Long-leaf willow primrose	<i>Ludwigia longifolia</i>
Moon flower	<i>Ipomoea alba</i>
Mysore raspberry	<i>Rubus niveus</i>
Mysorec thorn	<i>Caesalpinia decapetala</i>
Pampas grass	<i>Cortaderia selloana</i>
Paper mulberry	<i>Broussonetia papyrifera</i>
Seeded banana	<i>Musa ornata</i> or <i>M. velutina</i>
Sicklethorn	<i>Asparagus falcatus</i>
Tropical soda apple	<i>Solanum viarum</i>
Yellow bells	<i>Tecoma stans</i>



5 Actions

The following three goals are to achieve a long-term vision for the IPM Strategy where the underpinning ideology is to increase the resilience of vegetation on Council owned or managed land while addressing Invasive species threats. Delivery of the actions for each objective is prioritised numerically enabling progressive outcomes at five and ten year intervals, and in order to monitor continuous improvement.

Mission: To continuously improve upon and integrate new pest management technologies on Council owned and managed land that increase and facilitate resilience while maintaining human health, biosecurity, infrastructure and our unique biodiversity values across the Shire.

Action table for IPM delivery prioritisation

GOAL 1 Meet all statutory and legislative responsibilities; Biosecurity, Public and Work Health and Safety, NSW Pesticide Act and Environmental Protection.

Objective	Action	Deliverable	Priority
Develop and deliver Shire wide Integrated Pest Management tools that are current, transparent and support human health and the environment.	1.1 Complete an audit of the Roadside Vegetation Management Plan (RVMP) and Roadside mapping ensuring the Threatened Species are current and tagged.	1.1.1 Engage an IPM Officer to implement the IPM Strategy, regularly update the IPM tools and monitor progress. 1.1.2 Integrate the RVMP roadside mapping into Infrastructure Services "Reflect" (on-ground application). 1.1.3 Utilise the mapping to inform all on-ground roadside maintenance. 1.1.4 Update on-ground Roadside Maintenance programs to incorporate IPM practices that align with Council Policies.	5 year
	1.2 Deliver training to on-ground staff, contractors and support teams on current legislative requirements, weed categories and associated control techniques.	1.2.1 In conjunction with Rous County Council, provide on-going training in Weed identification and controls for all ground crews at least twice yearly. 1.2.2 Update and provide the Roadside Vegetation Management Booklet to all ground crew staff and in all vehicles used on Roadside Maintenance. 1.2.3 Instigate a protocol for briefing contractors who work on Roadside Maintenance that aligns with IPM procedures. 1.2.4 Adopt the National Standards for ecological restoration to ensure roadside maintenance programs incorporate correct methodology around High Quality Vegetation, Communities and the protection of Threatened Species. 1.2.5 Adopt the Pesticide Use form currently in use by Open Space alongside the Pesticide Notification actions for roadside on-ground works.	5 year
	1.3 Continue to liaise with local agencies, government and interest groups on alternative control methods and share methodologies and trialled alternatives across stakeholder groups.	1.3.1 Maintain the IPM Working group meetings for information sharing twice yearly with Council representatives to include Parks, Works, Utilities and Landcare. 1.3.2 Update the Invasive Species list on Council's website with relevant control techniques as they become available.	10 year
	1.4 Maintain Roadside vegetation to ensure public health and safety requirements and protection of infrastructure and assets.	1.4.1 Progressively increase the km covered by roadside maintenance programs on a yearly basis through adopting IPM practices while reducing the use of herbicides by Year 5 review. 1.4.2 Provide on-going training to key on-ground staff on methods that reduce pesticide use through: Timing, using a variety of controls, encouraging certain species and or replacing invasive species by incorporating Australian Standards restoration techniques (e.g. replacing roadside grasses with low stature species over time). 1.4.3 Update and maintain the Chemical Sensitive layer within Council's mapping program and incorporate this layer into "Reflect" to enable on-ground crews information sharing.	10 year
	1.5 Ensure compliance with current legislative requirements through partnerships across land tenure, state agencies and neighbouring LGAs.	1.5.1 Enable mapping and reporting protocols in conjunction with Rous County Council for early detection and on-going monitoring of invasive species.	10 year

GOAL 2 Continuously improve best practice IPM techniques on council owned and managed land and continue to reduce pesticide use in minimisation zones.			
Objective	Action	Deliverable	Priority
Establish a long-term commitment to Integrated Pest Management practices that continuously improve upon and update to adopt new technology and horticultural best practice as they become available.	2.1 Incorporate and acknowledge new technologies as they become available including but not limited to bio-controls, manual and mechanical controls, fire and lower or zero toxicity pesticides.	2.1.1 Conduct formal trials of alternative technologies on a site by site basis that are under-pinned by proven up-to-date scientific methods and results. 2.1.2 Conduct formal trials of restoration techniques that reduce herbicide use over time on Council owned or managed land particularly on rural roadsides.	5 year
	2.2 Instigate robust weed mapping to include all WoNS on council owned and managed land.	2.2.1 Progressively introduce weed mapping protocols for roadside maintenance applications that will cross over into Local Land Services mapping programs. 2.2.2 Incorporate an Invasive Species layer in Council's Geocortex mapping which aligns with Local Land Services State-wide weed mapping.	10 year
	2.3 Establish, document and adopt practices that reduce invasive species development and spread.	2.3.1 Develop record keeping proformas to collate data for pest species and their actions across Council owned and managed land. 2.3.2 Continue to monitor pesticide use and report on a yearly basis enabling continuous improvement for all Council bush regeneration sites and implement the same monitoring and reporting procedures for roadside maintenance. 2.3.3 Incorporate Australian Standards restoration techniques on all High Quality roadside vegetation as per the RVMP & aligning with "Small Steps to Healthier Roadsides". 2.3.4 Actively manage Crown and Council bush regeneration sites to maintenance levels before instigating new on-ground works within budgetary constraints. 2.3.5 Collate and share data with other LGAs and Rous County Council on species movement and emergency procedures. 2.3.6 Actively seek funding opportunities for habitat restoration of TECs and Threatened Species.	10 year

GOAL 3 Improve community engagement by providing relevant and up to date information on Invasive species and their control methods.			
Objective	Action	Deliverable	Priority
Maintain and improve transparency of pesticide use and efforts to cease or minimise pesticides on Council owned or managed land.	3.1 Maintain, review and update BSC Pesticide Use Notification Plan in accordance with BSC IPM Policy and Strategy.	3.1.1 Audit the current Chemical Sensitive Register and update to current, including all registered organic farms. 3.1.2 Update the Pesticide Use Notifications on Council website on a regular basis.	5 year
	3.2 Maintain, review and update the Council's Invasive Plant Species list and control methods for listed WoNS.	3.2.1 On a yearly basis ensure Council's Invasive Plant Species List published on the website is current and updated and information is sent to relevant Landcare groups. 3.2.2 Facilitate community workshops for information sharing, current best practice, new technologies for trial and citizen science activities (e.g. WoNS survey).	10 year
	3.3 Engage with local community groups, residents and visitors to inform and prevent the introduction of Invasive species to Byron Shire.	3.3.1 Provide information on the Shire's worst weeds on Council's website, Facebook page, front desk and real estates. 3.3.2 Support rural landowners to control invasive species on roadsides utilising the Goonengerry Landcare model and <i>National Standards for Ecological Restoration</i> on a trial basis. 3.3.3 Promote the use of green organics waste bins to reduce garden dumping in the bush.	5 year

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Appendix 1: Byron Shire Council Invasive Plant Species List

Scientific name	Common name	Biosecurity	Rous	Biodiversity Threat	Flowers/seeds	Control	Adverse impacts
<i>Acacia saligna</i>	Golden wattle			N	Spring	Herb	Highly invasive native to WA/displaces and impacts EEC's
<i>Acetosa sagittata</i>	Turkey rhubarb	GBD		Y	Nov-April	Herb	Smotherers trees and vegetation
<i>Ageratina adenophora</i>	Crofton weed	GBD		Y	Spring & Summer	Manual/Bio/Herb	Poisonous to horses/aggressive invader
<i>Ageratina riparia</i>	Mistflower	GBD		Y	Winter-Spring	Manual/Bio/Herb	Displaces native vegetation and can displace native animals
<i>Ailanthus altissima</i>	Tree of Heaven	GBD		Y	Spring-Summer	Herb	Allergic & irritant/Forms thickets/outcompetes native vegetation
<i>Alternanthera philoxeroides</i>	Alligator Weed	WoNS/MM/PM	Y	Y			
<i>Andropogon gayanus</i>	Gamba grass	WoNS/PM	Y	N			
<i>Andropogon virginicus</i>	Whisky grass			Y	Autumn-Summer	Herb	Highly invasive/threatens EEC and Biodiversity
<i>Annona glabra</i>	Pond apple	WoNS/PM	Y	N			
<i>Anredera cordifolia</i>	Madeira vine	WoNS/MM	Y	Y	Spring-Autumn	Bio/Herb	Smotherers trees and vegetation, can kill large canopy trees
<i>Araujia sericifera</i>	Moth vine	GBD		Y	Summer-Autumn	Herb	Poisonous/sap is irritant/smotherers trees and vegetation
<i>Archontophoenix alexandre</i>	Alexander palm			N	Spring-Summer	Herb	Displaces native vegetation and can displace native animals
<i>Ardisia crenata</i>	Coral berry			N	Autumn	Herb	Rapidly colonises and reduces native vegetation
<i>Ardisia elliptica</i>	Shoebutton ardisia	RRM	Y	N		Herb	Rapid colonisation displaces natives
<i>Aristolochia elegans</i>	Duthman's pipe			Y	Summer	Herb	Impact to endangered butterfly/smotherers trees and vegetation
<i>Arundo donax</i>	Elephant's grass	RRM	Y	Y			
<i>Asparagus aethiopicus</i>	Ground Asparagus	WoNS/MM	Y	Y	Spring-Autumn	Manual/Herb	Smotherers trees and native vegetation
<i>Asparagus africanus</i>	Asparagus fern	WoNS/MM	Y	Y	Spring-Summer	Herb	Smotherers trees and native vegetation
<i>Asparagus asparagoides</i>	Bridal creeper	WoNS/RRM/MM	Y	Y		Herb	Smotherers trees and vegetation
<i>Asparagus declinatus</i>	Bridal veil creeper	WoNS/PM	Y	N		Herb	Smotherers trees and vegetation
<i>Asparagus falcatus</i>	Sicklethorn	RRM	Y	N			
<i>Asparagus macowanii</i> var. <i>zuluensis</i>	Ming asparagus fern	RRM	Y	N			
<i>Asparagus plumosus</i>	Climbing asparagus	WoNS/MM	Y	Y	Spring-Autumn	Manual/Herb	Smotherers trees and native vegetation in all strata
<i>Asparagus scandens</i>	Snakefeather	MM	Y	Y	Summer	Herb	Smotherers understory and inhibits native recruitment
<i>Asparagus virgatus</i>	Broom asparagus	RRM *	Y	N	All year		
<i>Asystasia gangetica</i> subsp. <i>micrantha</i>	Chinese violet	RRM	Y	Y			
<i>Austrocylindropuntia cylindrica</i>	Cane cactus	WoNS/MM	Y	N		Herb	Causes injury and displaces natives
<i>Austrocylindropuntia</i> sp.	Prickly pears	MM	Y	Y		Herb	Causes injury and displaces natives
<i>Axonopus fissifolius</i>	Narrow carpet grass			Y	Summer	Herb	Mat forming/displaces native grasses
<i>Baccharis halimifolia</i>	Groundsel	RRM *	Y	Y	Autumn	Manual/Herb	Highly invasive/toxic to livestock
<i>Barleria repens</i>	Coral creeper			N	Summer-Winter	Herb	Rapidly invades disturbed areas and displacing natives.
<i>Bassia scoparia</i>	Kochia	National alert/PM	Y	N			
<i>Berberis lomariifolia</i>	Mahonia	RRM	Y	N			

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<i>Bidens</i> spp.	Bidens			Y	All year	Manual/Herb	Quickly establishes after disturbance
<i>Broussonetia papyrifera</i>	Paper mulberry	RRM	Y	N			
<i>Brugmansia x candida</i>	Angels trumpet			Y			Toxic to humans
<i>Bryophyllum delagoense</i>	Mother of millions	GBD		Y	All year	Manual/Fire/Bio/Herb	Toxic to humans, pets and livestock/rapidly colonises
<i>Bryophyllum pinnatum</i>	Resurrection plant			N	All year	Manual/Herb	Forms dense stands outcompeting natives and preventing regeneration
<i>Buddleia</i> sp.	Buddleia			N	Summer-Autumn	Herb	Can cause allergies/dust
<i>Cabomba caroliniana</i>	Cabomba	WoNS/MM/RRM *	Y	Y			
<i>Caesalpinia decapetala</i>	Mysore thorn	RRM *	Y	Y		Manual/Herb	Smothers trees and native vegetation/restricts access
<i>Callisia</i> sp.	Basketplant			N	Winter-Spring	Manual/Herb	Outcompetes and smothers native vegetation
<i>Calypocarpus vialis</i>	Creeping cinderella weed			N	Winter-Spring	Manual/Herb	Invades understorey on riparian
<i>Canna indica</i>	Canna lily	GBD		Y	Spring-Summer	Herb	Vigorous clumper/displaces natives
<i>Cardiospermum grandiflorum</i>	Balloon vine	GBD		Y	Summer-Winter	Herb	Smothers trees and vegetation
<i>Cardus nutans</i> subsp. <i>nutans</i>	Nodding thistle	GBD		N		Manual/Bio/Herb	Aggressively outcompetes/displaces/invades
<i>Cecropia</i>	Cecropia sp.	RRM	Y	N			
<i>Celtis sinensis</i>	Chinese celtis	RRM *	Y	N		Manual/Herb	Rapidly colonises and dominates
<i>Cenchrus clandestinum</i>	Kikuyu			Y	Perennial	Herb	Aggressively outcompetes native grasses
<i>Cenchrus echinatus</i>	Mossman river grass	GBD		Y	All year	Herb	Aggressively outcompetes native grasses
<i>Cenchrus longispinus</i>	Spiny burrgrass	GBD		Y	Summer	Herb	Aggressively outcompetes native grasses
<i>Cenchrus purpurea</i>	Banner grass			N		Manual/Herb	Rapidly colonises and dominates all vegetation
<i>Cenchrus setaceus</i>	Fountain grass	GBD		Y	All year	Herb/Manual	Aggressively invades and outcompetes native vegetation
<i>Cenchrus spinifex</i>	Spiny burrgrass	GBD		Y	Summer	Herb	Aggressively outcompetes native grasses
<i>Centaurea stoebe</i> subsp. <i>micranthos</i>	Spotted knapweed	PM	Y	N			
<i>Centaurea x moncktonii</i>	Black Knapweed	PM	Y	N			
<i>Cestrum nocturnum</i>	Night jasmine			N	Spring-Summer	Herb/Manual	Forms thickets displacing native vegetation
<i>Cestrum parqui</i>	Green cestrum	RRM *	Y	Y		Manual/Herb/Mulch/Supress	Highly toxic to humans and animals
<i>Chloris gayana</i>	Rhodes grass			Y	Summer-Autumn	Herb/Manual	Highly invasive/smothers ground covers
<i>Chromolaena odorata</i>	Siam weed	National alert/PM	Y	N			
<i>Chrysanthemoides monilifera</i> subsp. <i>monilifera</i>	Boneseed	WoNS/MM/C.O.	Y	Y	Autumn	Bio/Herb	Aggressive invader/displaces native vegetation
<i>Chrysanthemoides monilifera</i> subsp. <i>rotundata</i>	Bitou Bush	WoNS/Bio Zone	Y	Y	Autumn	Manual/Bio/Herb/Fire	Coastal dune invader/displaces native vegetation
<i>Cinnamomum camphora</i>	Camphor laurel	GBD		Y	Autumn & Winter	Manual/Herb/Fire	Mildly toxic to humans, suppresses natives
<i>Clidemia hirta</i>	Kosters curse	PM	Y	N			
<i>Colocasia esculenta</i>	Taro			Y	Winter-Summer		Forms monocultures outcompeting natives
<i>Commelina benghalensis</i>	Hairy commelina			N	All year	Herb	Smothers trees and vegetation
<i>Cortaderia jubata</i>	Purple pampas grass	RRM	Y	Y			
<i>Cortaderia selloana</i>	Pampas grass	RRM	Y	Y		Herb	Outcompetes native vegetation
<i>Crataegus monogyna</i>	Hawthorn	GBD		Y		Herb	Invasive
<i>Crocosmia x crocosmiiflora</i>	Montbretia	GBD		Y		Manual/Herb	Displaces natives
<i>Cryptostegia grandiflora</i>	Rubber vine	WoNS/PM	Y	Y			

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<i>Cuphea carthagenensis</i>	Cuphea			N	All year	Herb	Rapidly colonises/highly invasive
<i>Cylindropuntia fulgida</i>	Boxing glove cactus	WoNS/MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Cylindropuntia imbricata</i>	Rope pear	WoNS/MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Cylindropuntia rosea</i>	Hudson pear	WoNS/MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Cylindropuntia</i> spp.	Prickly pears	WoNS/MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Cyperus teneristolon</i>	Cyperus	National alert/GBD		Y			
<i>Cytisus scoparius</i>	Scotch broom	WoNS/MM/RRM	Y	Y	Spring/Summer	Herb/Manual/Fire	Toxic to humans/forms thickets
<i>Delairea odorata</i>	Cape Ivy	GBD		Y	Winter-Spring	Herb	Smothers trees and vegetation
<i>Desmodium intortum</i>	Green-leaved desmodium			N	Autumn-Spring	Herb	Smothers trees and vegetation
<i>Desmodium uncinatum</i>	Velcro plant			N	Summer-Autumn	Herb	Smothers trees and vegetation
<i>Digitaria</i> sp.	Grass			N	Summer	Herb	Dominates and outcompetes
<i>Dioscorea bulbifera</i>	Aerial yam			N	Summer-Autumn	Herb	Invasive climber and scrambler
<i>Dolichandra unguis-cati</i>	Cats claw creeper	WoNS/MM	Y	Y	Spring-Summer	Bio/Herb	Smothers trees and vegetation, can kill large canopy trees
<i>Dovyalis caffra</i>	Kei apple	RRM	Y	N			
<i>Duranta repens</i>	Duranta			N	Winter	Herb	Poisonous to humans and animals/Rapid coloniser/displaces natives
<i>Echinochloa polystachya</i>	Aleman grass	RRM	Y	Y			
<i>Egeria densa</i>	Leafy elodea	GBD		Y	Vegetative	Remove & dry	Escapee that will choke waterways
<i>Ehrharta erecta</i>	Panic veldtgrass			Y	Spring-Summer	Herb	Forms dense stands and outcompetes native groundcovers
<i>Eichhornia azurea</i>	Anchored water hyacinth	PM	Y	Y			
<i>Eichhornia crassipes</i>	Water hyacinth	WoNS/MM/Bio zone	Y	Y			
<i>Elephantopus mollis</i>	Tobacco weed	RRM	Y	N			
<i>Eleusine indica</i>	Crowsfoot grass			N	All year	Herb	Highly invasive
<i>Equisetum</i> spp.	Horsetails	National Alert/RRM	Y	Y			
<i>Eragrostis curvula</i>	African lovegrass	GBD		Y	Summer	Herb/Fire	Forms monocultures and outcompetes native vegetation
<i>Eriobotrya japonica</i>	Loquat			N	Autumn	Herb	Rapid coloniser/displaces natives
<i>Erythrina crista-galli</i>	Cockspur coral-tree	RRM *	Y	Y	Spring-Summer	Herb	Potential to clog waterways
<i>Erythrina sykesii</i>	Coral tree			Y	NA Rhizome/fragment	Herb	Potential to clog waterways
<i>Eucalyptus torelliana</i>	Cadaghi			Y	Spring-Summer	Herb	Displaces native/modifies floristic diversity
<i>Eugenia uniflora</i>	Brazilian cherry			N	?	Herb	Rapid coloniser/displaces natives
<i>Euphorbia cyathophora</i>	Painted spurge				All year	Manual/Herb	Rapid coloniser/displaces natives
<i>Euphorbia paralias</i>	Sea spurge	RRM	Y	N			
<i>Fraxinus griffithii</i>	Himalayan ash			N	Summer & Autumn	Manual & Herb	Outcompetes and displaces native vegetation
<i>Genista linifolia</i>	Flax-leaf broom	WoNS/MM	Y	Y			
<i>Genista monspessulana</i>	Cape broom	WoNS/MM/RRM	Y	Y			
<i>Gleditsia triacanthos</i>	Honey locust	RRM *	Y	Y	Summer	Herb	Rapid coloniser/outcompetes native vegetation
<i>Gloriosa superba</i>	Glory lily	RRM *	Y	Y	Summer-Winter	Herb	Highly toxic to humans and animals
<i>Gomphocarpus fruticosus</i>	Narrow-leaf cotton bush			N	Spring-Summer	Manual/Herb	Forms dense thickets reducing native vegetation
<i>Gymnocoronis spilanthoides</i>	Sengal tea plant	National alert/RRM	Y	Y			

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<i>Hedera helix</i>	Ivy			Y	Summer	Herb	Smothers and outcompetes natives
<i>Hedychium gardnerianum</i>	Ginger lily	GBD		N		Manual/Herb	Smothers and outcompetes natives
<i>Heliotropium amplexicaule</i>	Blue heliotrope	RRM	Y	Y			
<i>Heteranthera reniformis</i>	Kidney-leaf mud plantain	RRM	Y	Y			
<i>Heteranthera zosterifolia</i>	Water star grass	RRM	Y	N			
<i>Hieracium aurantiacum</i>	Orange hawkweed	National Alert/PM	Y	Y			
<i>Hieracium</i> sp.	Hawkweeds	PM	Y	N			
<i>Hydrocotyle ranunculoides</i>	Hydrocotyle/pennywort	PM	Y	Y		Herb	
<i>Hygrophila costata</i>	Hygrophila	RRM *	Y	Y		Herb	
<i>Hygrophila polysperma</i>	East Indian hygrophila	RRM *	Y	Y		Herb	
<i>Hymenachne amplexicaulis</i>	Hymenachne	WoNS/RRM*/MM	Y	Y		Herb	Chokes water ways and displaces flora & fauna
<i>Hyparrhenia hirta</i>	Coolatai grass	GBD		Y	Spring/Summer	Herb/Manual	Forms dense groundcover displacing native flora and fauna
<i>Hypericum perforatum</i>	St John's wort	GBD		Y	Nov-March	Bio/Herb	Poisonous to livestock
<i>Hypoestes phyllostachya</i>	Freckle face	GBD		Y	Spring-Autumn	Herb	Smothers and outcompetes natives
<i>Inga edulis</i>	Icecream bean			N		Herb	
<i>Ipomoea alba</i>	Moonflower	RRM*	Y	Y	Spring-Autumn	Herb	
<i>Ipomoea cairica</i>	Coastal morning glory	GBD		Y	All year	Manual/Herb	Smothers trees and vegetation
<i>Ipomoea indica</i>	Purple morning glory	GBD		Y	Spring-Autumn	Herb	Toxic to humans/smothers vegetation
<i>Ipomoea purpurea</i>	Morning glory	GBD		Y		Herb	Smothers trees and vegetation
<i>Jacaranda mimosifolia</i>	Jacaranda			N	November	Herb	Shades out native vegetation limiting natural regeneration
<i>Jatropha gossypifolia</i>	Belly-ache bush	WoNS/MM	Y	N			Highly toxic to humans and stock/sap causes dermatitis
<i>Juglans ailantifolia</i>	Japanese walnut	RRM	Y	N			
<i>Koeleruteria elegans</i> subsp. <i>formosana</i>	Golden rain tree	National alert/GBD		Y		Herb	Out competes natives
<i>Lagarosiphon major</i>	Lagarosiphon	National alert/PM	Y	Y		Herb	Chokes waterways causing environmental damage
<i>Lantana camara</i>	Lantana	WoNS/MM	Y	Y	Nov-June	Manual/Bio/Herb/Fire	Poisonous to humans and livestock/outcompetes natives
<i>Lantana montevidensis</i>	Creeping lantana			N	All year	Manual/Herb	Highly invasive displacing native vegetation
<i>Leptospermum laevigatum</i>	Coastal tea tree			N	August-October	Herb	Displaces local native vegetation
<i>Leucaena leucocephala</i>	Lead tree	RRM *	Y	N			
<i>Ligustrum lucidum</i>	Large-leaf privet	GBD		Y	Autumn/Winter	Manual/Herb	Allergies in humans/rapidly dominates
<i>Ligustrum sinense</i>	Small-leaved privet	GBD		Y	Autumn/Winter	Manual/Herb	Allergies in humans/rapidly dominates
<i>Limnolobium laevigatum</i>	Frogbit	PM	Y	Y			
<i>Limnolobium spongia</i>	Spongeplant	PM	Y	Y			
<i>Limnolobium flava</i>	Yellow burrhead	PM	Y	Y			
<i>Lonicera japonica</i>	Japanese honeysuckle	GBD		Y	Autumn-Spring	Herb	Toxic to humans, smothers & suppresses natives
<i>Ludwigia longifolia</i>	Long-leaf willow primrose	RRM *	Y	N			
<i>Ludwigia peruviana</i>	Ludwigia	RRM	Y	Y			
<i>Lycium ferocissimum</i>	African boxthorn	WoNS/MM	Y	Y	Spring & Summer	Manual+ Herb	Toxic to humans/aggressive invader/allows pests to breed
<i>Macroptilium atropurpureum</i>	Siratro	GBD		N	Spring-Autumn	Manual/Herb	Smothers trees & vegetation

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<i>Melinis minutiflora</i>	Molasses grass			Y	All year	Manual/Herb	Outcompetes native grasses
<i>Melinis repens</i>	Red natal grass			N	All year	Manual/Herb	Outcompetes native grasses
<i>Miconia</i> sp.	Miconia	PM	Y	N			
<i>Mikania micrantha</i>	Mikania vine	PM	Y	N			
<i>Mimosa pigra</i>	Mimosa	PM	Y	N			
<i>Murraya paniculata</i>	Murraya	GBD		N	Winter-Spring	Herb	Rapidly colonises and dominates
<i>Myriophyllum aquaticum</i>	Parrots feather	GBD		N	Spring & Summer	Manual/Bio/Herb	Chokes waterways altering flow & habitat
<i>Myriophyllum spicatum</i>	Eurasian water milfoil	PM	Y	Y			
<i>Nassella neesiana</i>	Chilean needle grass	WoNS/MM	Y	Y	Summer & Autumn	Fire/Herb	
<i>Nassella tenuissima</i>	Mexican feather grass	PM	Y	N			
<i>Neonotonia cordifolia</i>	Glycine			N	Spring/Summer	Herb	Highly invasive smothering all strata
<i>Nephrolepis cordifolia</i>	Fishbone fern	GBD		N		Herb	Native but can be invasive
<i>Neptunia oleracea</i>	Water mimosa	RRM	Y	N			
<i>Nerium oleander</i>	Oleander	GBD		N	Summer	Herb	Highly poisonous to humans
<i>Nymphaea</i> sp.	Waterlily	GBD		Y		Herb	Invasive to waterways
<i>Ochna serrulata</i>	Ochna	GBD		Y	Summer	Herb	Rapidly colonises and dominates
<i>Olea europaea</i>	African olive	GBD		Y	Winter	Manual/Herb/Fire	Invasive
<i>Opuntia aurantiaca</i>	Tiger pear	WoNS/MM	Y	N		Bio/Herb	Causes injury and displaces natives
<i>Opuntia elata</i>	Prickly pear	MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Opuntia monacantha</i>	Smooth tree pear	WoNS/MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Opuntia stricta</i>	Common pear	WoNS/MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Opuntia tomentosa</i>	Velvet tree pear	WoNS/MM	Y	Y		Bio/Herb	Causes injury and displaces natives
<i>Orobancha</i> spp.	Broomrapes	PM	Y	N			
<i>Paederia foetida</i>	Skunk vine	RRM	Y	N			
<i>Parkinsonia aculeata</i>	Parkinsonia	WoNS/C.O.	Y	Y		Bio/Herb	
<i>Parthenium hysterophorus</i>	Parthenium weed	WoNS/PM	Y	Y			
<i>Paspalum conjugatum</i>	Buffalo grass			N	Summer	Herb	Invades and dominates disturbed areas
<i>Paspalum dilatatum</i>	Paspalum			Y	Spring/Summer	Manual/Herb	Rapid coloniser/displaces native grasses
<i>Paspalum quadrifarium</i>	Tussock paspalum	GBD		Y	Spring-Autumn	Herb	Invasive coloniser displaces native vegetation
<i>Paspalum urvillei</i>	Vasey grass				Spring-Summer	Manual/Herb	Invasive coloniser displaces native vegetation
<i>Paspalum wettsteinii</i>	Broad-leaved paspalum			Y	Spring-Autumn	Manual/Herb/Fire	Rapid coloniser/reduces regeneration
<i>Passiflora</i> sp.	Passionfruit vine			N		Manual/Herb	Secondary invader/smotherers trees and vegetation
<i>Passiflora suberosa</i>	Corky passionfruit	GBD		Y	All year	Herb	Secondary invader/smotherers trees and vegetation
<i>Passiflora subpeltata</i>	White passionflower			N	Spring & Summer	Manual/Herb	Secondary invader/smotherers trees and vegetation
<i>Pereskia aculeata</i>	Leaf cactus	National alert/RRM	Y	Y			
<i>Persicaria chinensis</i>	Chinese knotweed	RRM	Y	N			
<i>Phoenix</i> sp.	Palm/date palm			Y		Manual/Herb	Excludes natives/easily dispersed

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<i>Phyllostachys</i> sp.	Rhizomatous bamboo	GBD		Y		Herb	Rapidly colonises and dominates
<i>Phytolacca octandra</i>	Inkweed			N	Spring-Summer	Manual/Herb	Poisonous/rapidly colonises and dominates
<i>Pinuselliottii</i>	Slash pine			Y		Herb & Removal	Rapidly colonises and dominates
<i>Pinus</i> sp.	Pine			N		Manual/Herb	Rapidly colonises and dominates
<i>Pistia stratiotes</i>	Water lettuce	RRM	Y	Y			
<i>Pithecoctenium crucigerum</i>	Monkey's comb	RRM*	Y	N		Herb	Aggressive woody climber/outcompetes & smothers natives
<i>Prosopis glandulosa</i>	Mesquite	WoNS/MM	Y	Y			
<i>Psidium cattleianum</i>	Cherry guava	GBD		Y	Spring-Summer	Herb	Rapid coloniser/displaces natives
<i>Pueraria lobata</i>	Kudzu	RRM *	Y	Y	Rhizomous	Herb	Rapidly smothers native vegetation
<i>Pyracantha</i> sp.	Firethorn	GBD		Y		Herb	Displaces natives
<i>Pyrostegia venusta</i>	Orange trumpet vine			N	Winter-Summer	Herb	Smothers native vegetation
<i>Raphiolepis indica</i>	Indian hawthorn	GBD		N	Spring & Summer	Herb	Rapid coloniser/easily dispersed
<i>Ricinus communis</i>	Castor oil plant	GBD		Y	November-March	Herb	Poisonous to humans and livestock
<i>Rivina humilis</i>	Coral berry			N	All year	Manual/Herb	Rapid coloniser/displaces natives
<i>Robinia pseudoacacia</i>	Black locust	RRM	Y	Y			
<i>Romulea rosea</i>	Onion grass			Y	August-Nov	Manual/Herb	Displaces native grasses
<i>Rubus fruticosus</i> agg.	Blackberry	WoNS/MM	Y	Y	Summer-Autumn	Herb/Fire	Forms thickets displacing native vegetation
<i>Rubus niveus</i>	White blackberry	RRM	Y	N			
<i>Sagittaria platyphylla</i>	Sagittaria	WoNS/MM	Y	N			
<i>Salix cinerea</i>	Wild pussy-willow	WoNS/RRM/MM	Y	N			
<i>Salix nigra</i>	Black willow	WoNS/RRM/MM	Y	Y			
<i>Salvinia molesta</i>	Salvinia	WoNS/MM	Y	Y	Vegetative	Bio/Herb	Degrades aquatic ecosystems
<i>Schefflera actinophylla</i>	Umbrella tree	GBD		Y	Summer-Autumn	Herb	Displaces natives
<i>Schinus terebinthifolius</i>	Broad-leaf pepper tree	RRM *	Y	Y	All year	Manual/Herb	Poisonous to humans, hosts plant disease
<i>Senecio glastifolius</i>	Holly leaved senecio	National alert/GBD		Y			
<i>Senecio madagascariensis</i>	Fireweed	WoNS/MM	Y	Y	Spring-Autumn	Manual/Herb	Poisonous to livestock/invasive
<i>Senna pendula</i> var. <i>glabrata</i>	Senna	GBD		Y	Spring	Herb	Rapidly colonises and displaces natives
<i>Senna x floribunda</i>	Senna or Cassia	GBD		Y	Spring	Herb	Rapidly colonises and displaces natives
<i>Setaria palmifolia</i>	Palm grass	GBD		N	Spring/Summer	Herb	Rapidly colonises and displaces natives
<i>Setaria sphacelata</i>	Setaria			N	All year	Herb/Fire	Prolific reproducer/outcompetes native vegetation
<i>Sida rhombifolia</i>	Paddy's lucerne			N	Spring-Summer	Herb	Rapidly colonises and displaces natives
<i>Solanum capsicoides</i>	Devil's apple			N	Spring-Summer	Herb	Rapidly colonises and displaces natives
<i>Solanum chrysotrichum</i>	Giant devils fig	RRM *	Y	N	Spring	Herb	Rapidly colonises and displaces native vegetation
<i>Solanum elaeagnifolium</i>	Silver nightshade	WoNS/MM	Y	Y	Summer		Prolific reproducer/outcompetes native vegetation
<i>Solanum nigrum</i>	Black berry nightshade			N	Spring-Summer	Manual/Herb	Rapidly colonises and displaces native vegetation
<i>Solanum mauritianum</i>	Tobacco bush	GBD		N	All year	Manual/Herb	Rapidly colonises and displaces native vegetation
<i>Solanum pseudocapsicum</i>	Jerusalem cherry			N	Spring-Autumn	Herb	Highly poisonous/rapidly colonises & displaces native vegetation

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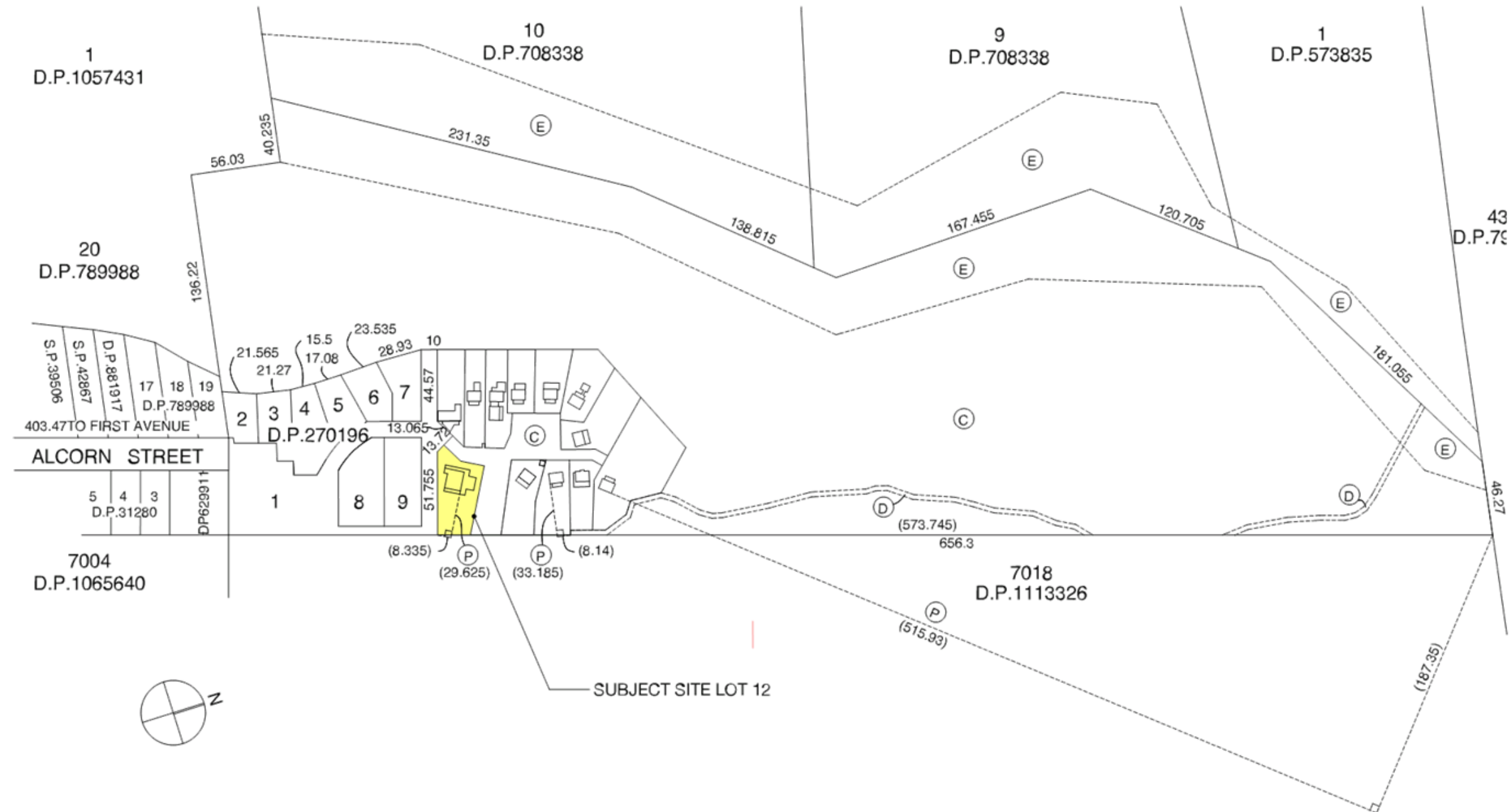
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<i>Solanum seaforthianum</i>	Climbing nightshade	GBD		Y	Spring-Autumn	Manual/Herb	Rapidly colonises and smothers vegetation
<i>Solanum torvum</i>	Devil's fig			N	All year	Herb	Rapidly colonises and displaces native vegetation
<i>Solanum viarum</i>	Tropical soda apple	C.O.	Y	N	Winter	Herb	Prolific reproducer/outcompetes native vegetation
<i>Sorghum halepense</i>	Johnson grass	GBD		Y	Perennial	Herb	Rapidly colonises and outcompetes native vegetation
<i>Sphagneticola trilobata</i>	Singapore daisy	GBD		N	All year	Herb	Rapidly colonises and smothers native plants
<i>Spathodea campanulata</i>	African tulip tree			N	All year	Herb	Easily dispersed
<i>Sporobolus fertilis</i>	Giant parramatta grass	GBD		Y	All year	Bio/Herb	Rapid coloniser/displaces native grasses
<i>Sporobolus natalensis</i>	Giant rats tail grass			Y	Spring-Autumn	Manual/Herb	Rapid coloniser/displaces native grasses
<i>Sporobolus pyramidalis</i>	Giants rats tail grass	RRM	Y	N			
<i>Stenotaphrum secundatum</i>	Buffalo grass			Y	Summer	Herb	Rapid coloniser/displaces native grasses
<i>Stratiotes aloides</i>	Water soldier	PM	Y	N			
<i>Striga</i> sp.	Witchweeds	PM	Y	N			
<i>Syagrus romanzoffiana</i>	Cocos palm	GBD		N	Spring	Manual/Herb	Prolific reproducer/outcompetes native vegetation
<i>Syngonium podophyllum</i>	Syngonium			N	All year	Herb	Smothers native vegetation/parasitic
<i>Tabebuia chrysotricha</i>	Golden trumpet tree			Y		Manual/Herb	Highly invasive
<i>Tamarix aphylla</i>	Athel pine	WoNS/MM	Y	Y	Autumn & Spring	Manual/Herb	Highly invasive/alters biodiversity/reduces water
<i>Tecoma stans</i>	Yellow bells	RRM*	Y	Y	Spring	Herb	Prolific reproducer/outcompetes native vegetation
<i>Thunbergia alata</i>	Black-eyed Susan vine			Y	All year	Manual/Herb	Smothers native vegetation
<i>Thunbergia grandiflora</i>	Blue sky flower	GBD		N	Spring-Summer	Herb	Vigorous climber/smothers native vegetation
<i>Tipuana tipu</i>	Rosewood	National alert/GBD		Y			
<i>Tithonia diversifolia</i>	Japanese sunflower	GBD		N	All year	Herb	Outcompetes natives
<i>Toxicodendron succedaneum</i>	Rhus tree	GBD		N	Spring-Summer	Manual/Herb	Highly toxic/allergy causing
<i>Tradescantia fluminensis</i>	Wandering jew	GBD		Y	Spring-Autumn	Herb	Outcompetes and smothers native vegetation
<i>Tradescantia zebrina</i>	Striped trad			N	All year	Herb	Outcompetes and smothers native vegetation
<i>Trapa</i> sp.	Water caltrop	PM	Y	N			
<i>Triadica sebifera</i>	Chinese tallow tree	RRM *		Y			
<i>Ulex europaeus</i>	Gorse	WoNS/RRM	Y	Y			
<i>Urena lobata</i>	Congo jute			N	All year	Herb	Aggressive coloniser/displaces natives
<i>Urochloa mutica</i>	Para grass			Y	All year	Manual/Herb	Rapidly colonises and chokes waterways
<i>Vachellia karroo</i>	Karoo thorn	National alert/PM	Y	Y			
<i>Vachellia nilotica</i>	Prickly acacia	WoNS/PM	Y	Y			
<i>Vinca major</i>	Blue periwinkle	GBD		Y	Spring-Summer	Manual/Herb	Outcompetes and smothers native vegetation
<i>Watsonia meriana</i>	Watsonia			Y	N/A	Manual/Herb	Forms monocultures excluding native vegetation
<i>Xanthium occidentale</i>	Noogoora burr	GBD		N	Summer-Autumn	Herb	Form dense stands
<i>Xanthium spinosum</i>	Bathurst burr	GBD		Y	Summer	Herb	Poisonous to stock
<i>Xanthium strumarium</i>	Rough cocklebur			Y	Summer/Autumn	Herb	Readily dispersed
<i>Yucca aloifolia</i>	Yucca			N		Herb	Toxic to humans

Abbreviation	Meaning	Action
GBD	General Biosecurity Duty	Prevent, eliminate and minimise
MM	Mandatory Measure	Must not be imported or sold in NSW
RRM	Regional Recommended Measure	Notify, mitigate, eradicate and keep land free of the plant.
RRM*	Regional Recommended Measure - Core infestation	Reduce impacts on priority assets
PM	Prohibited Matter	An offence to have dealings/must report to DPI
Bio Zone	Biosecurity Zone	Notify, eradicate, destroy and suppress
C.O.	Biosecurity Control Order	Ministerial order to eradicate and destroy and not be moved
Nat alert	National Alert	28 environmental weeds that are in early stages of establishment that have potential to become a significant threat.
WoNS	Weed of National Significance	32 weeds regarded as the worst weeds in Australia due to invasiveness, potential for spread, and economic and environmental impacts
HT	High threat to Biodiversity	Durrough et al. (2018) Invasive, persistent alien plants with the potential to outcompete native species, modify key ecosystem processes and are difficult to control.
Shire specific threat	RefTSC/Brisbane	Environmental weed

Biosecurity Act Tool	Intended Outcome
Prohibited Matter: For declaration and management of significant weeds not present in NSW, or part of NSW.	Weeds prevented from entering the state
Control Order: For managing weeds under approved eradication programs. Control Orders last for five years, but can be renewed for longer-term eradication programs.	Weeds eradicated
Biosecurity Zone: For weeds subject to ongoing strategic management in a defined area of the state. A Biosecurity Zone specifies the measures that must be taken in the defined area to manage the weed.	Weeds contained
General Biosecurity Duty (GBD): For managing the spread of all weeds that present a biosecurity risk. Any person dealing with biosecurity matter must take measures to prevent, eliminate or minimise the biosecurity risk (as far as is reasonably practicable). The GBD applies equally to a carrier of biosecurity matter and to any person who knows or ought to know of the biosecurity risks associated with the activity.	Spread and/or impact of all weeds that pose a biosecurity risk is managed. The GBD is in addition to any requirements included in a control order, biosecurity zone or other instrument made under the Biosecurity Act.

PROPOSED ALTERATIONS AND ADDITIONS TO: PART LOT 12, 18/2 ALCORN STREET SUFFOLK PARK



LOCATION PLAN
Scale 1:2500

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

LOCATION PLAN

ISSUE : DA	REVISION: A	DRAWING N° 01
DATE: 11/05/2019	PAPER SIZE : A3	

ALL DIMENSIONS TO BE CHECKED ON
SITE PRIOR TO CONSTRUCTION

GFA:

EXISTING : 127m²

PROPOSED GROUND FLOOR : 127m²

PROPOSED FIRST FLOOR: 109m²

TOTAL PROPOSED = 236m²

LAND SIZE =1,209m²

FSR = 20%

DECKS:

EXISTING DECK: 87m²

PROPOSED TOTAL DECKS:
87m² + 34m² = 121m²

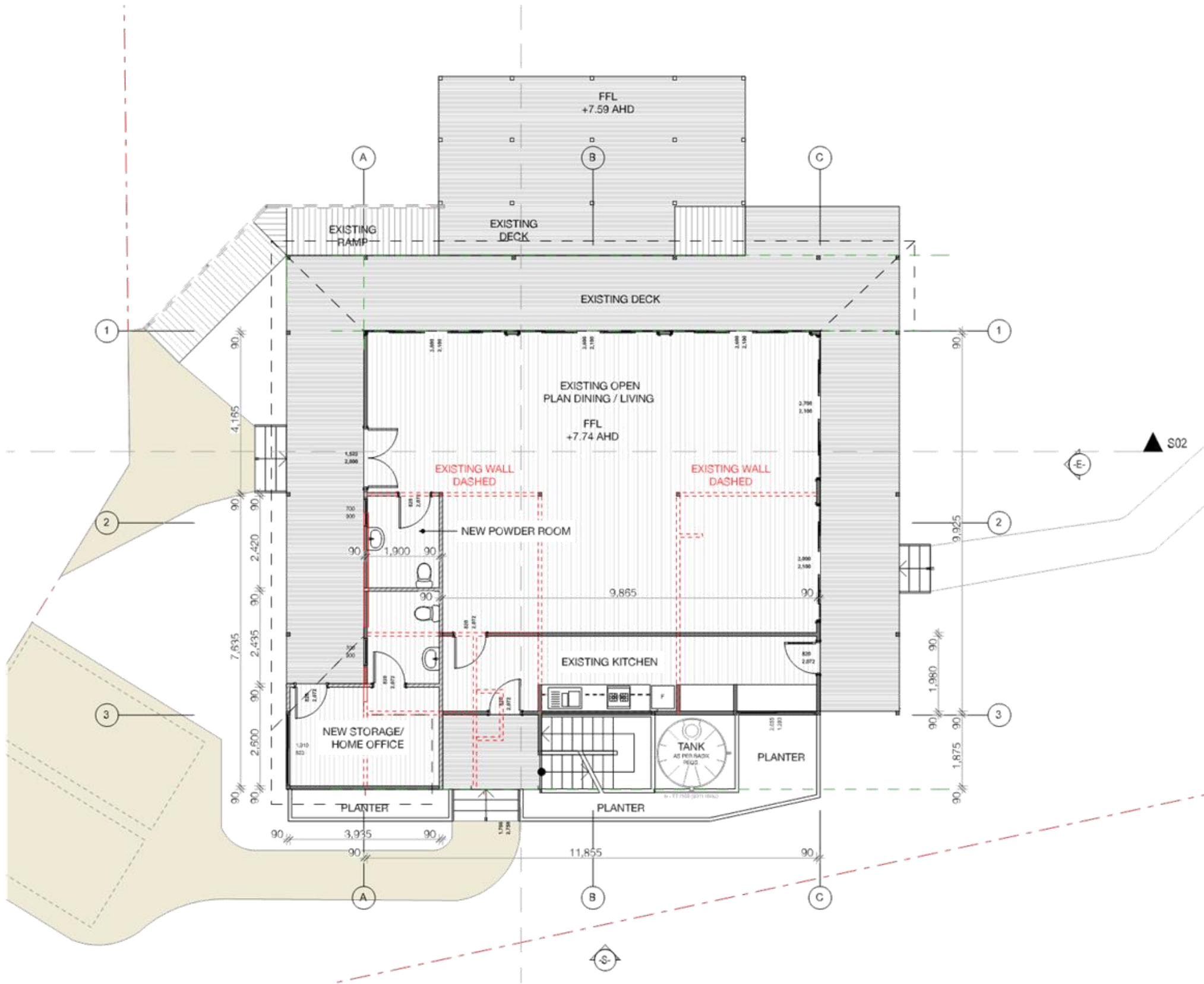


DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

SITE PLAN

ISSUE : DA	REVISION: A	DRAWING N°
DATE: 11/05/2019	PAPER SIZE : A3	02
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



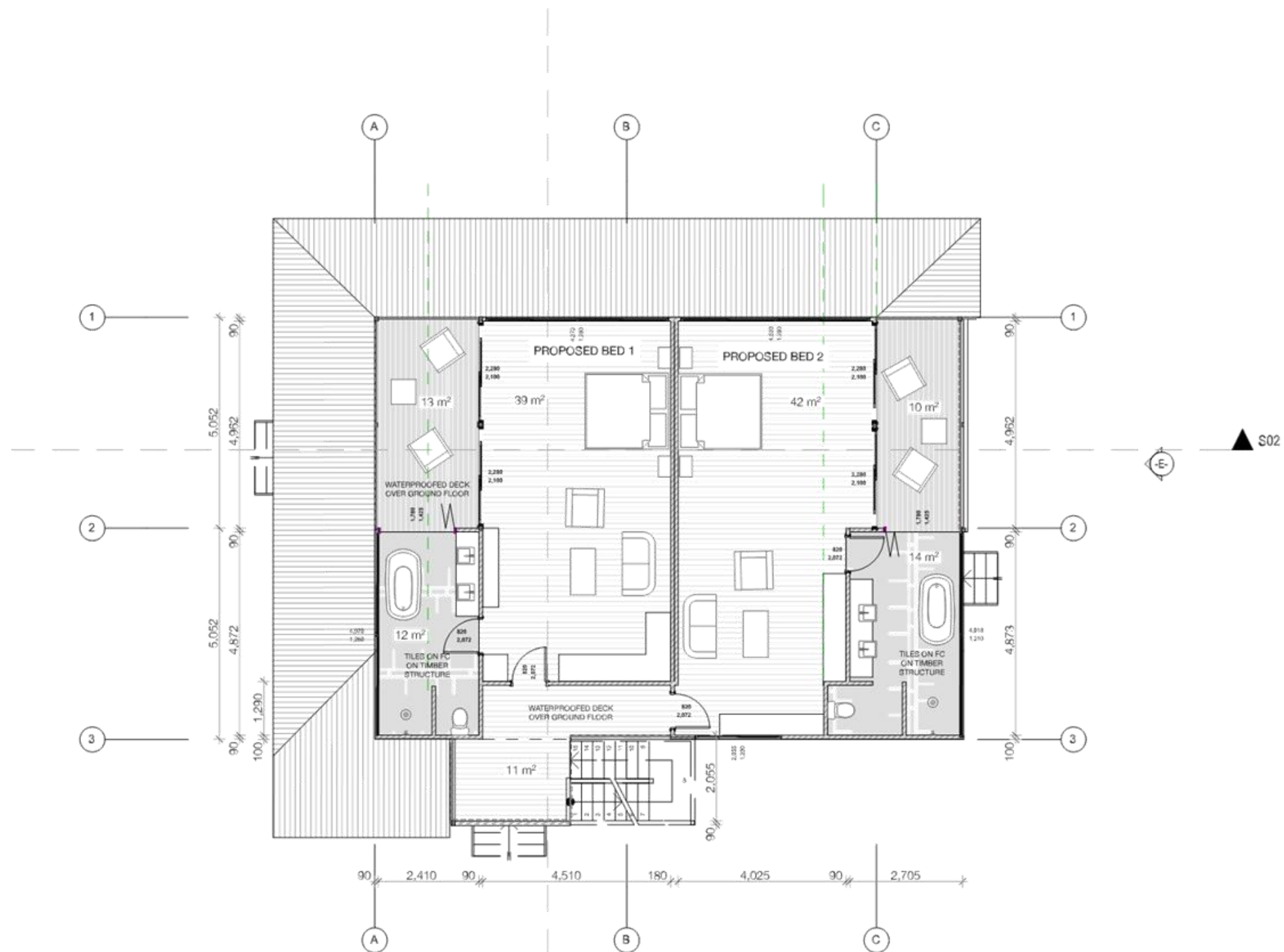
Ground Floor
Scale 1:100

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

GROUND FLOOR PLAN

ISSUE : DA	REVISION: A	DRAWING N°
DATE: 11/05/2019	PAPER SIZE : A3	03
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



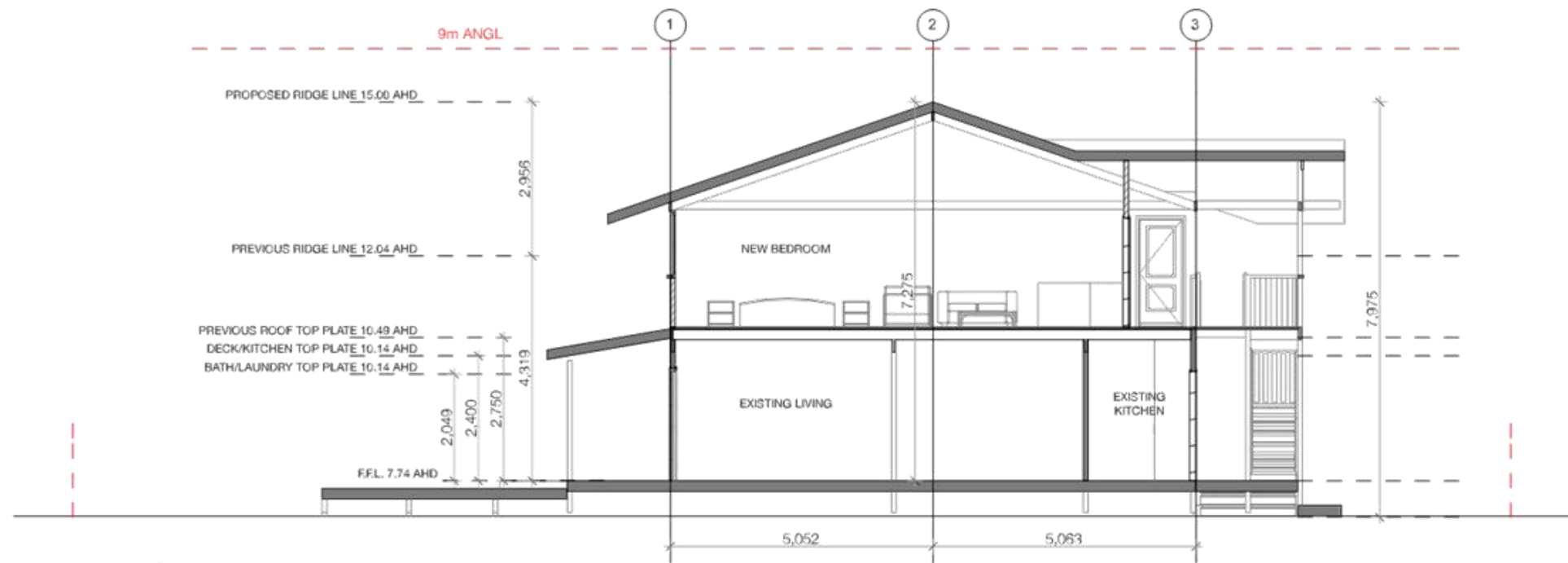
First Floor
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DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

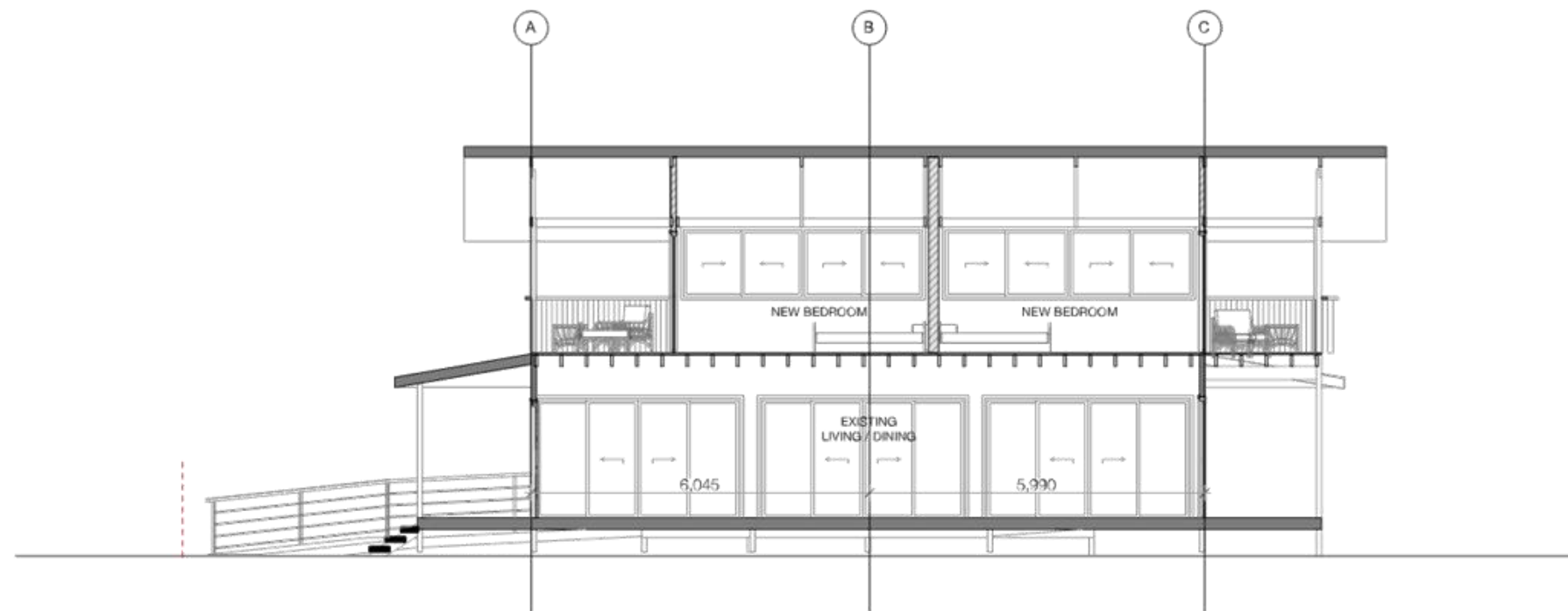
OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

FIRST FLOOR PLAN

ISSUE : DA	REVISION: A	DRAWING N°
DATE: 11/05/2019	PAPER SIZE : A3	04
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



SECTION 01
Scale 1:100



SECTION 2
Scale 1:100

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

SECTIONS

ISSUE : DA	REVISION: A	DRAWING N°
DATE: 11/05/2019	PAPER SIZE : A3	
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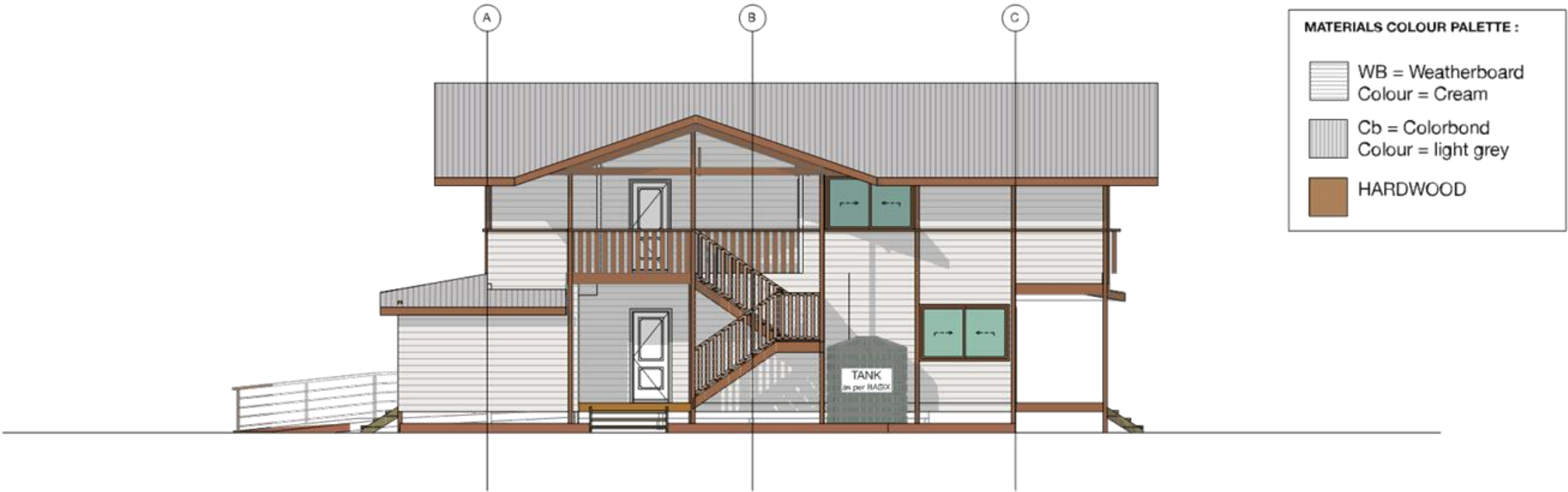


DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

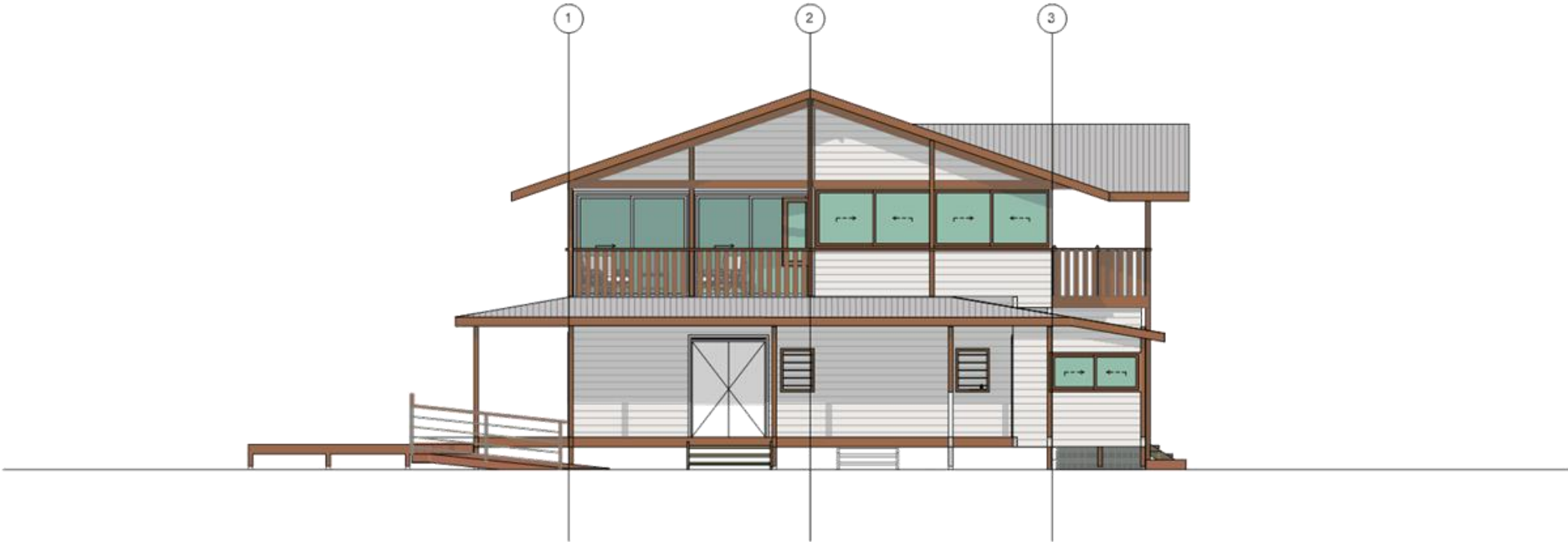
OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

ELEVATIONS

ISSUE : DA	REVISION: A	DRAWING N°
DATE: 11/05/2019	PAPER SIZE : A3	06
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



SOUTH ELEVATION
Scale 1:100



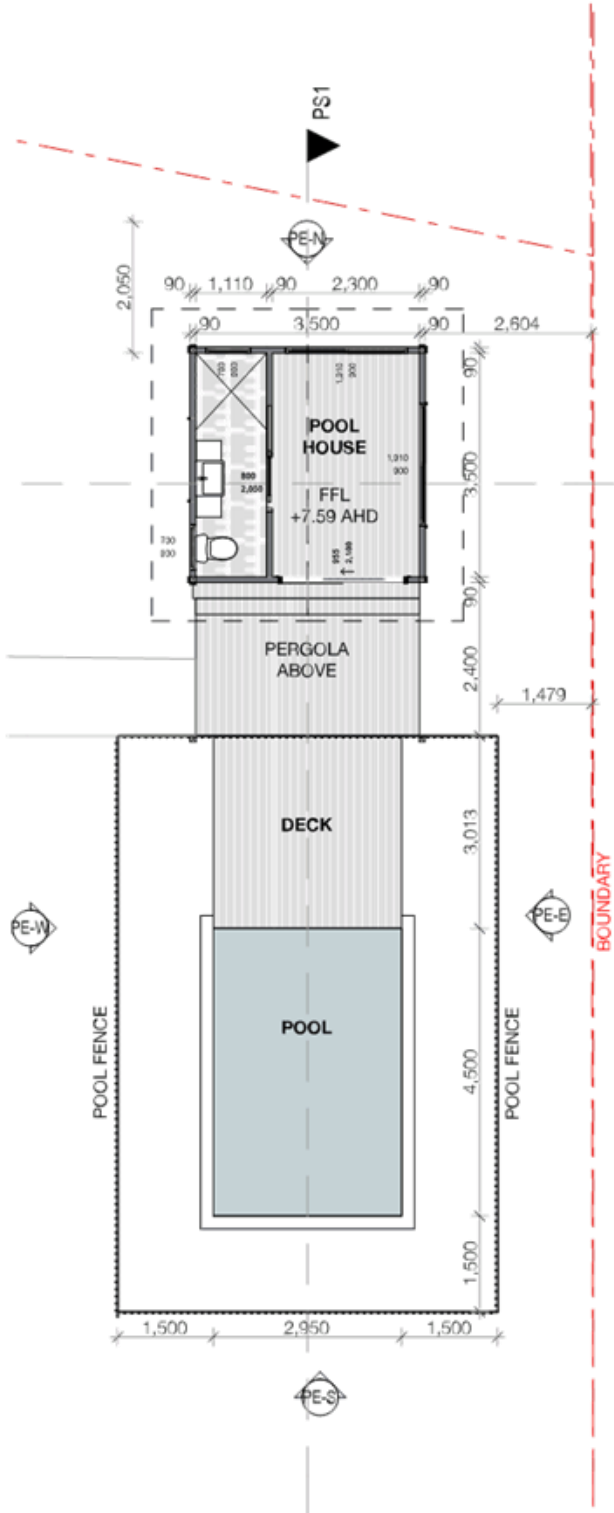
WEST ELEVATION
Scale 1:100

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

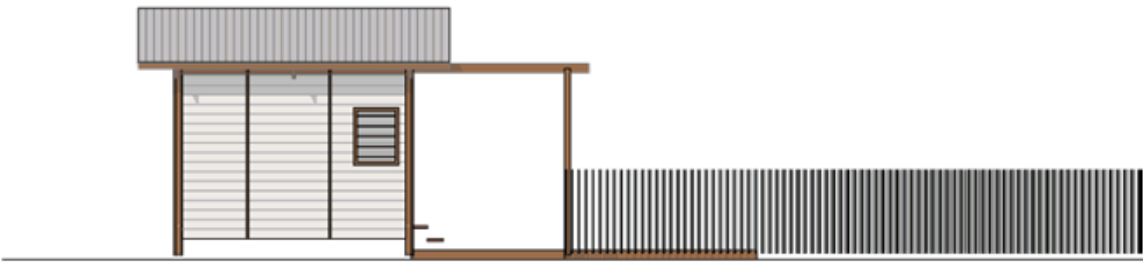
OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

ELEVATIONS

ISSUE : DA	REVISION: A	DRAWING N°
DATE: 11/05/2019	PAPER SIZE : A3	07
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



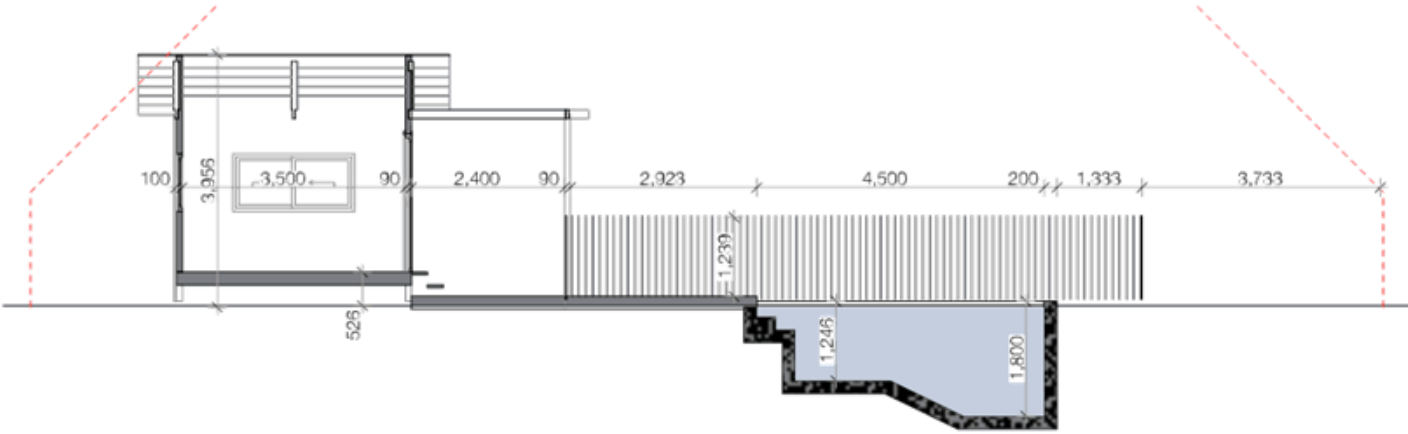
Ground Floor
Scale 1:100



WEST ELEVATION
Scale 1:100



EAST ELEVATION
Scale 1:100



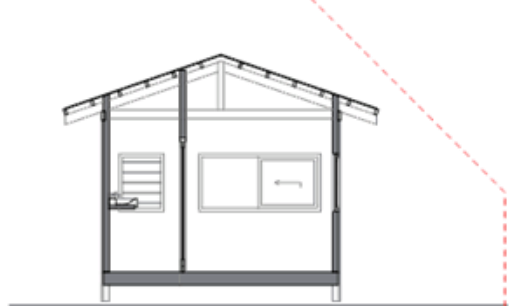
SECTION 1
Scale 1:100



SOUTH ELEVATION
Scale 1:100



NORTH ELEVATION
Scale 1:100



SECTION 2
Scale 1:100

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

POOL AND POOL HOUSE

ISSUE: DA	REVISION: A	DRAWING N°
DATE: 11/05/2019	PAPER SIZE: A3	08
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		

ISSUE: DA	REVISION: F	DRAWING N°
DATE: 11/11/2019	PAPER SIZE: A3	
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		01

GFA:
EXISTING : 127m² (10.5% FSR)
PROPOSED GROUND FLOOR : 134m²
PROPOSED FIRST FLOOR: **98m²**
TOTAL PROPOSED = **232m²**
LAND SIZE =1,209m²
FSR = **19%**

DECKS:
EXISTING DECK: 87m²
PROPOSED UPSTAIRS DECKS: 34m²

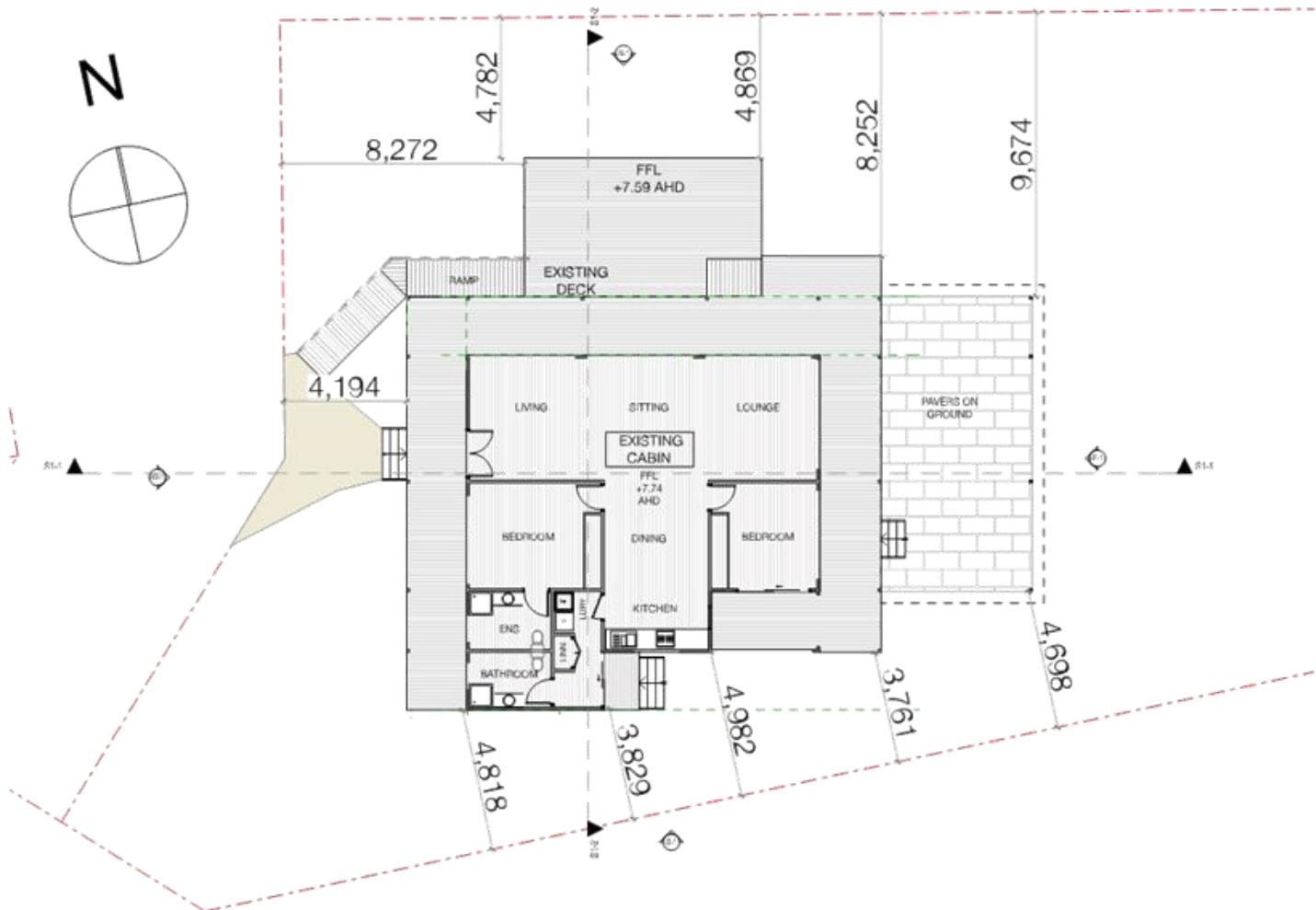


DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

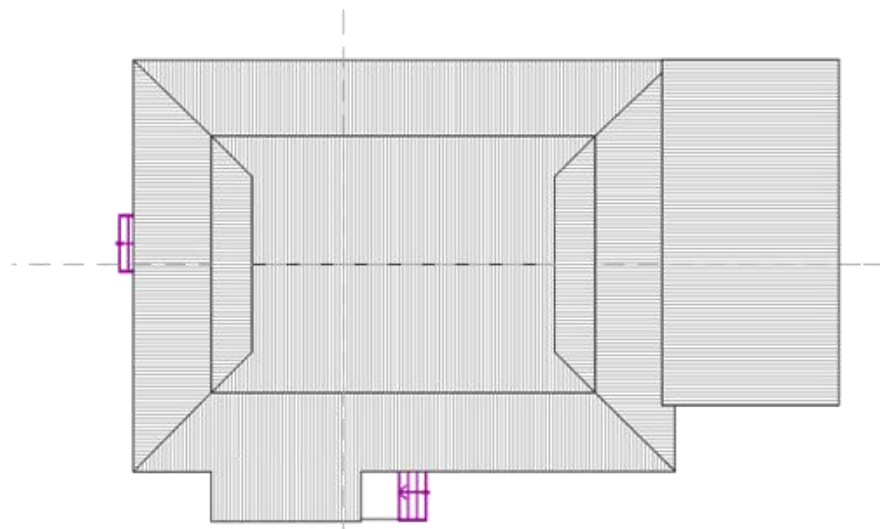
OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

SITE PLAN

ISSUE : DA	REVISION: F	DRAWING N°
DATE: 11/11/2019	PAPER SIZE : A3	02
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



EXISTING PLAN
Scale 1:200



EXISTING ROOF PLAN
Scale 1:200



NORTH ELEVATION
Scale 1:200



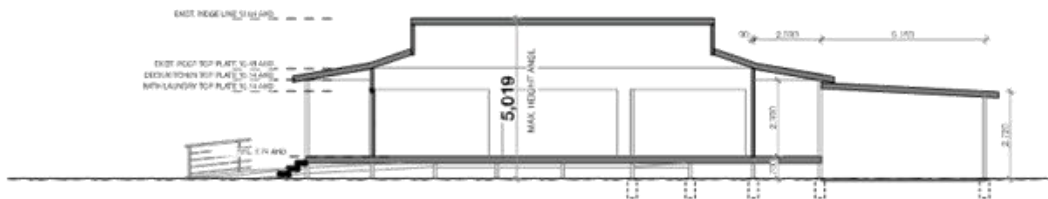
EAST ELEVATION
Scale 1:200



SOUTH ELEVATION
Scale 1:200



WEST ELEVATION
Scale 1:200



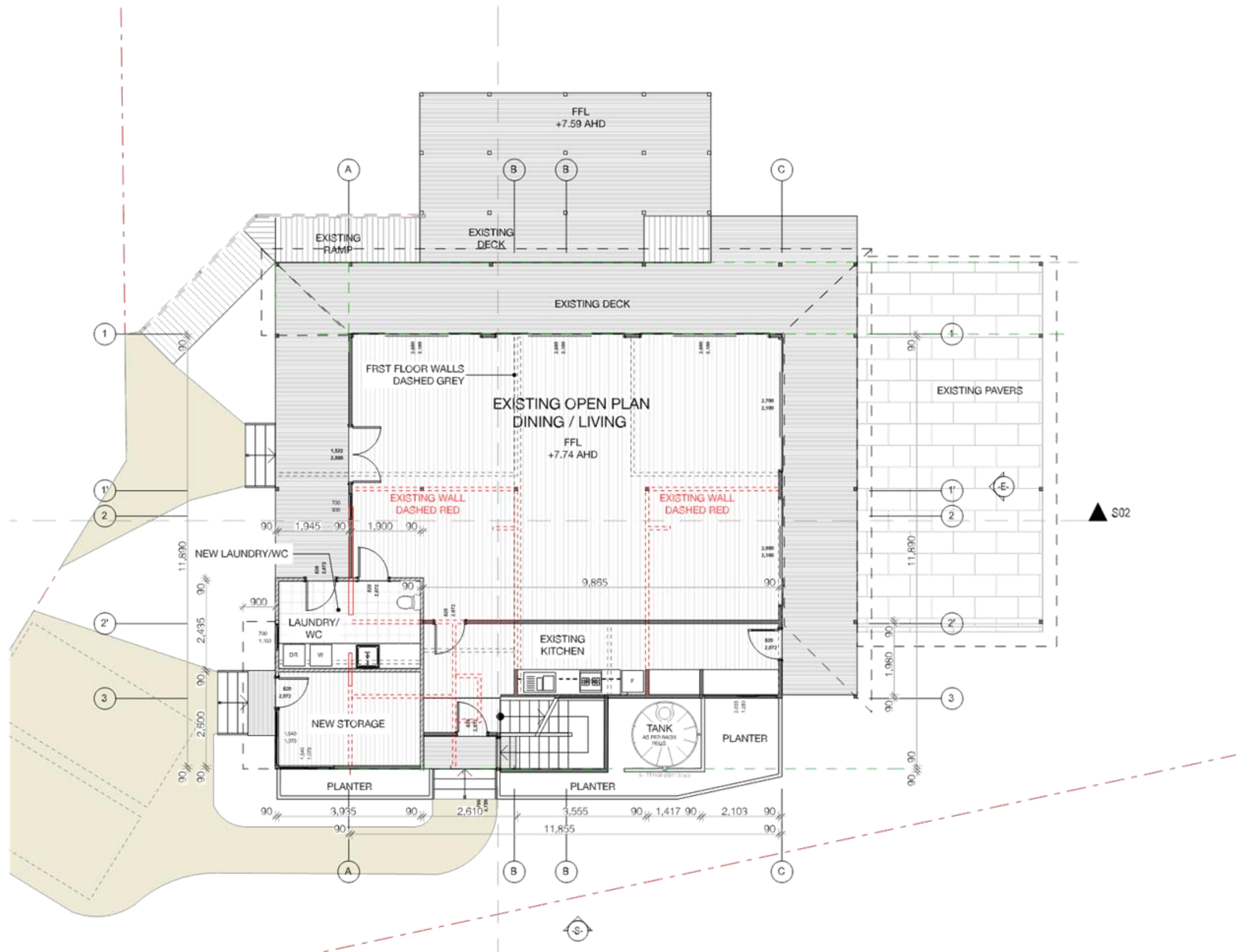
SECTION 01-1
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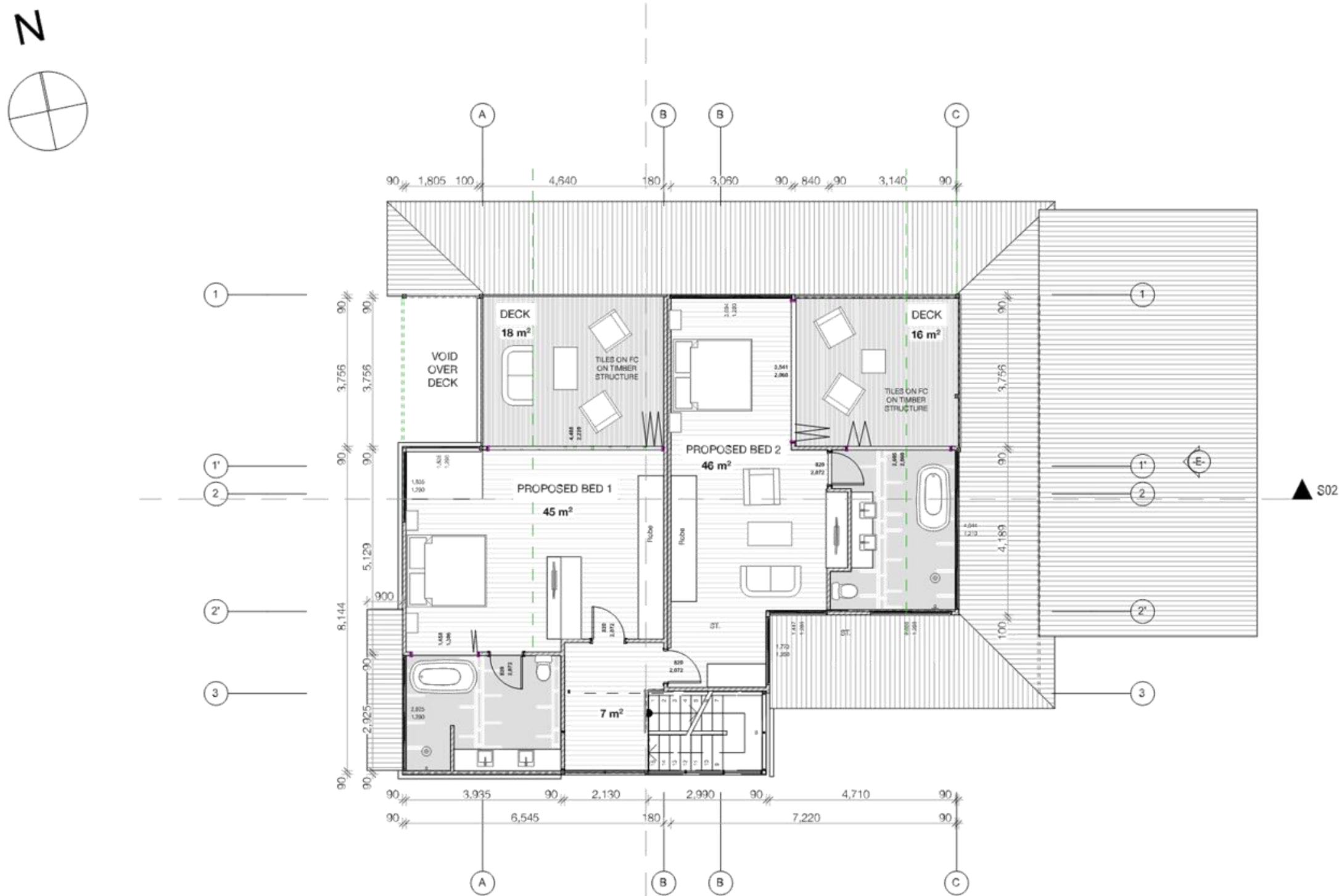
DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCOBN STREET SUFFOLK PARK

EXISTING

ISSUE : DA	REVISION: F	DRAWING N°
DATE: 11/11/2019	PAPER SIZE : A3	03
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		





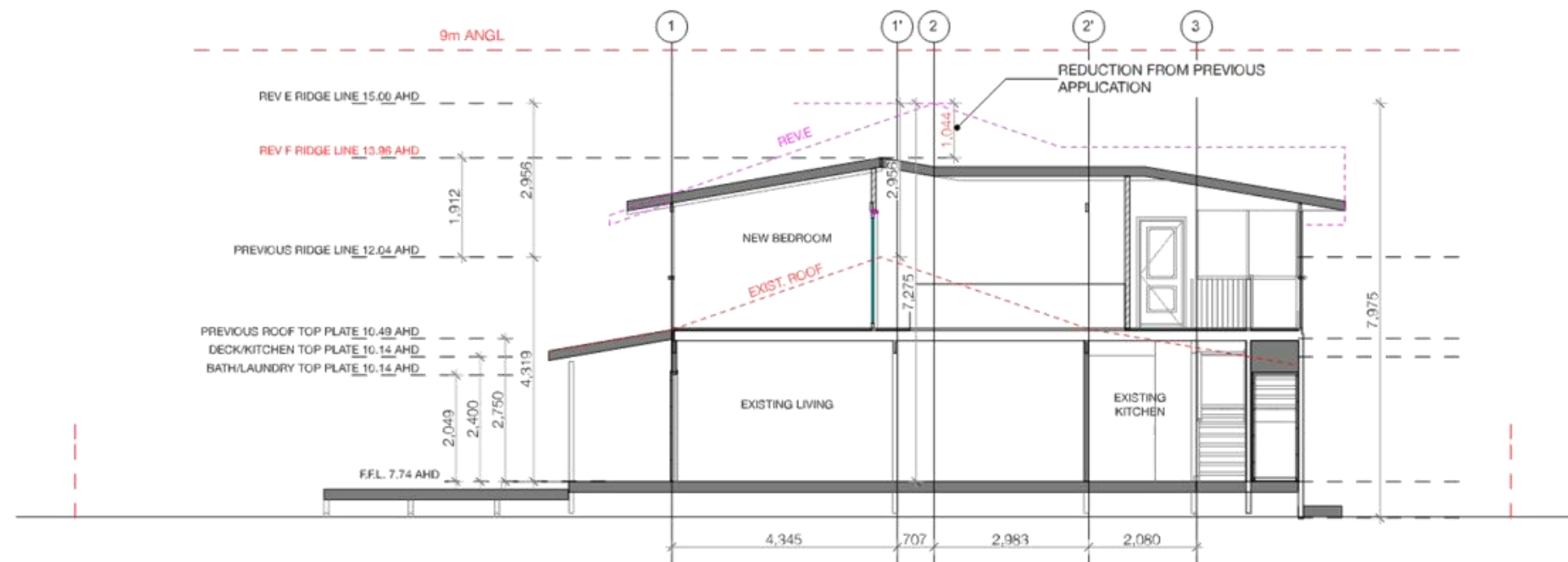
First Floor
Scale 1:100

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

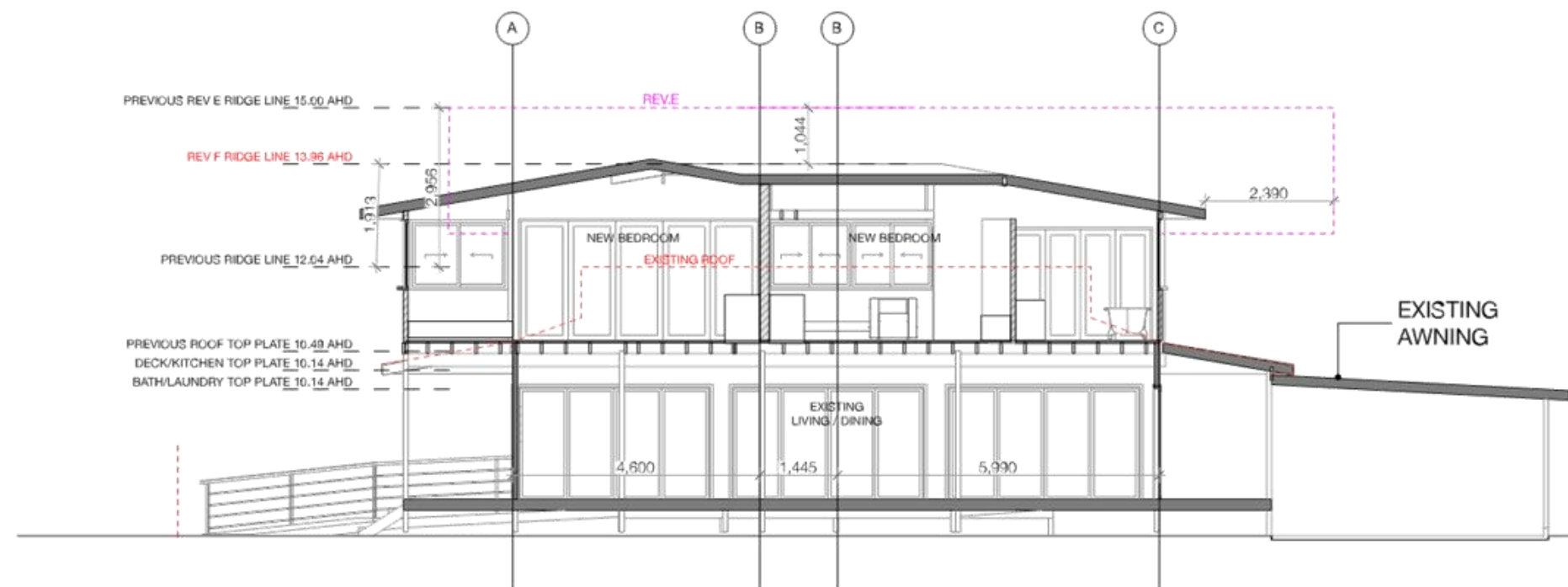
OWNER: BEN MC COMB
ADDRESS:
18/2 AL CORN STREET SUFFOLK PARK

FIRST FLOOR PLAN

ISSUE : DA	REVISION: F	DRAWING N°
DATE: 11/11/2019	PAPER SIZE : A3	05
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



SECTION 01
Scale 1:100



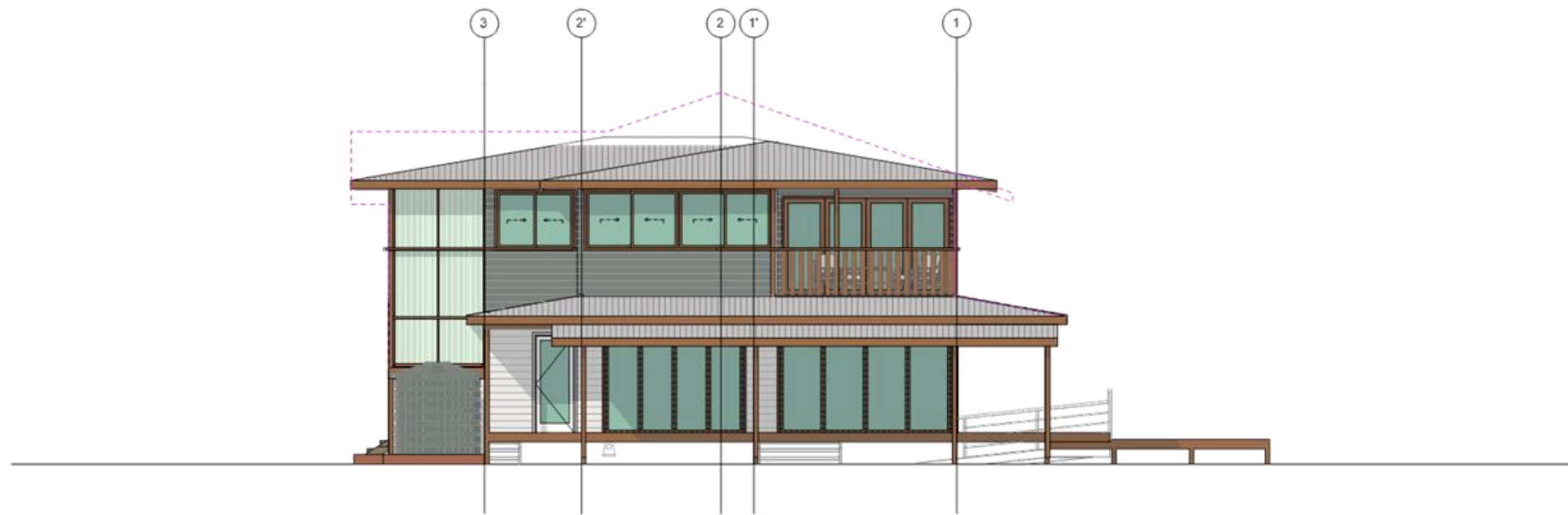
SECTION 2
Scale 1:100

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCON STREET SUFFOLK PARK

SECTIONS


ISSUE : DA	REVISION: F	DRAWING N°
DATE: 11/11/2019	PAPER SIZE: A3	06
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



EAST ELEVATION
Scale 1:100



NORTH ELEVATION
Scale 1:100

MATERIALS COLOUR PALETTE :	
	WB = Weatherboard Colour = Cream
	WB = Weatherboard Colour = Woodland grey
	Cb = Colorbond Colour = Windspray
	HARDWOOD
	Dp = DAMPALON Colour = clear

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

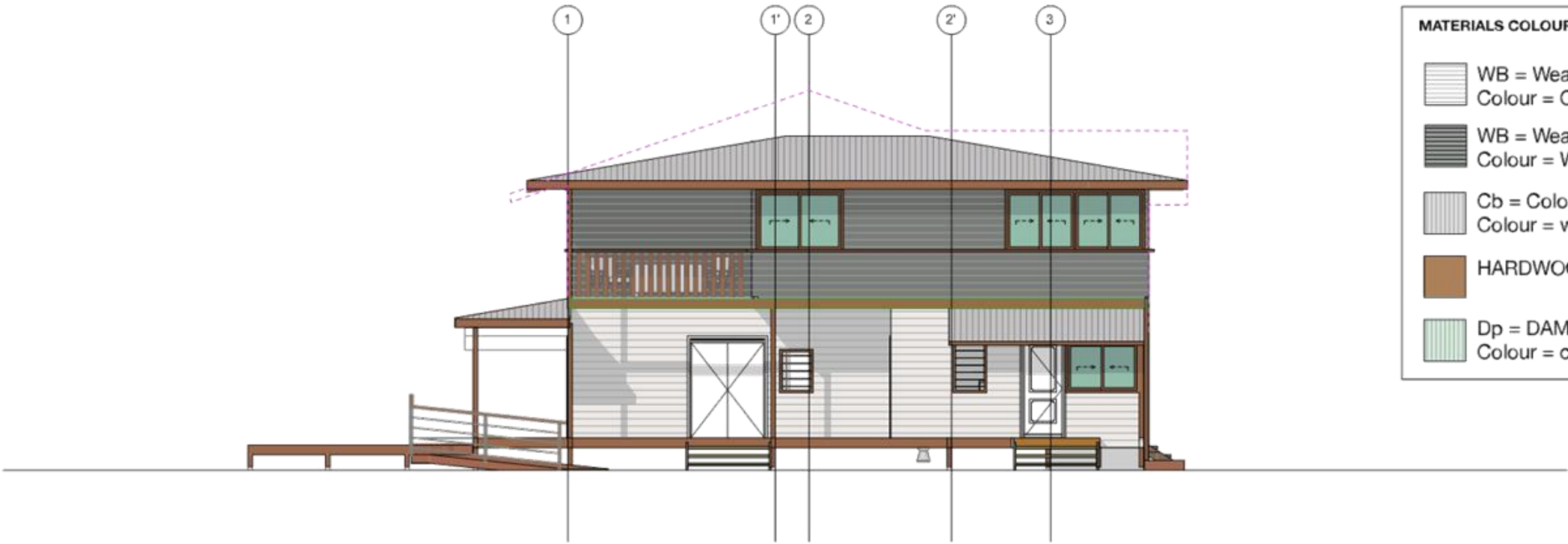
OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

ELEVATIONS


ISSUE : DA	REVISION: F	DRAWING N°
DATE: 11/11/2019	PAPER SIZE: A3	07
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		



SOUTH ELEVATION
Scale 1:100



WEST ELEVATION
Scale 1:100

MATERIALS COLOUR PALETTE :	
	WB = Weatherboard Colour = Cream
	WB = Weatherboard Colour = Woodland grey
	Cb = Colorbond Colour = windspray
	HARDWOOD
	Dp = DAMPALON Colour = clear

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

OWNER: BEN MC COMB
ADDRESS:
18/2 ALCORN STREET SUFFOLK PARK

ELEVATIONS

ISSUE : DA	REVISION: F	DRAWING N°
DATE: 11/11/2019	PAPER SIZE: A3	08
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION		

Van Iersel, Rob

From: filomena aversa <integyoga@hotmail.com>
Sent: Monday, 6 January 2020 5:02 PM
To: submissions
Subject: Lot and DP: LOT: 12 SP: 90496

Hi Rob

Thanks for your time today.

I clearly object to the above development proposal to go ahead in Tallow Beach houses at 18/2 Alcorn Street Suffolk Park.

Tallow Beach Houses is a commercial property relegated to demountable tourist cabins only and should remain that way with owners only permitted to stay 90 days total. This does not entitle them to make a proposal based on a comparative plan study of the residential building envelope of DP 270196 which is Tallow Sands Estate.

Currently their permitted access is through The Residential STRATA of 8 houses in Tallow Sands Estate; DP 270196

We bought our house with the fact of only accommodating a low impact tourist facility and do not approve of any further development to continue.

Their comparative Plan about heights from one commercial tourist strata to a residential strata is not appropriate as their strata includes low impact holiday cabins and has nothing to do with the residential Strata of Tallow Sands Estate.

Should they wish to extend their holiday cabins to accommodate more bedrooms then they should be obliged to find another access in and out so that residents of Tallow Sands Estate are not subject to their further commercial development in the future.

Objections:

1. Double storey of two bedroom extension will set a precedent for other demountable cabins to do like wise and therefore;
2. Increase the number of residents and subsequently increase cars and traffic on the access way through Tallow Sands Estate.
3. Increase in population in a very sensitive part of Tallow Beach and Arrakwal National Park is not in accordance with the original development plan of 1999 DP 270196
4. Sewerage which is shared by both Strata's has already reached full capacity and more bedrooms add more sewerage. We have already experienced sewerage overflow problems with full tourist bookings of Tallow Beach Houses
5. Originally this Lot 18/2 Alcorn St was designated as a community space and how is this possible to include bedrooms? Was it not part of the original development approval for tourism at Tallow Beach Houses.?

DA 10.2019.276.1 RECOMMENDED CONDITIONS OF CONSENT

SCHEDULE 1 CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**
The development is to be in accordance with the following plans:

Plan No.	Description	Dated:
02 Rev F	Site Plan	11.11.2019
04 Rev F	Ground Floor Plan	11.11.2019
05 Rev F	First Floor Plan	11.11.2019
06 Rev F	Sections	11.11.2019
07 Rev F	Elevations	11.11.2019
08 Rev F	Elevations	11.11.2019

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Approved Use**
Use of this development is approved for tourist accommodation. Any activity other than that defined as tourist facilities must not be carried out unless development consent has been granted.

Nothing within this development consent permits the development to be used as a residential dwelling-house.

3. **Coastal Erosion**
The development must cease if at any time the coastal erosion escarpment comes within 50 metres of any building associated with this development. The buildings and works used in connection with the development must be removed immediately to an approved location by the owner of the land. The owner must return the landform of the subject land to the predevelopment state and suitably revegetate the land.

In this condition coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Note: at the end of a storm the escarpment may be nearly vertical; as it dries out, the escarpment slumps to a typical slope of 1 vertical to 1.5 horizontal.

4. **Bush fire safety measures**
The relevant conditions of the Bush Fire Safety Authority issued in conjunction with Development Consent 10.2012.2.1 shall be complied with at all times.

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

5. **Construction of buildings in bushfire-prone areas - further details required**
The application for a Construction Certificate is to include details indicating the construction of the building to Level BAL 12.5 construction as defined in AS 3959-1999 - Construction of buildings in bushfire-prone areas, and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection 2006 and section 3 of AS3959-2009.
6. **Water and Sewerage - Section 68 approval required**
An approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.
7. **Site Waste Minimisation and Management Plan**
Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information
www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc
8. **Building materials and colours to be specified**
The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must generally be earth tone colours and that the use of white and near white colours is not permissible.

Such plans and specifications must be approved as part of the Construction Certificate.
9. **Long Service Levy to be paid**
In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for building works shall not be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable).

These payments can be made online at www.longservice.nsw.gov.au. Proof of payment is required to be submitted with the Construction Certificate application.

For further information regarding the Long Service Payment please refer to the website above.

The following conditions are to be complied with prior to any building or construction works commencing

10. Erosion and sediment measures

Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. This may include stockpiled materials such as sand, etc.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

The following conditions are to be complied with during any building or construction works

11. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- (a) Monday to Friday, from 7 am to 6 pm.
- (b) Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

NOTE: Council may impose on-the-spot fines for non-compliance with this condition.

12. Construction Noise

Construction noise is to be limited as follows:

- (a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- (b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

NOTE: Council may impose on-the-spot fines for non-compliance with this condition.

13. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

14. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

15. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

16. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

The following conditions are to be complied with prior to issue of an Occupation Certificate

17. Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

18. Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- (a) Clear of buildings and infrastructure,
- (b) Clear of effluent disposal areas,
- (c) Not concentrated so as to cause soil erosion, and
- (d) Not directly to a watercourse.

The following conditions are to be complied with at all times

19. No interference with amenity

The use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- (a) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- (b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- (c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- (d) All trade waste pre-treatment devices and other waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- (e) Goods deliveries, fuel deliveries and waste collection shall be restricted to daytime operating hours.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

Clause 98A Erection of signs

Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a) appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b) given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c) notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Terms of existing approval – 10.2012.2.1

Conditions applicable to Development Consent 10.2012.2.1 – *Additions and alterations to existing tourist facility and 11 lot Strata Subdivision* – remain in applicable. In particular, Condition 29 restricts guest numbers to "4 persons per cabin", and Condition 30 specifies "the tourist accommodation units shall not be occupied by an owner or a resort guest for more than 90 days in a calendar year".

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone

allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.



**Planning Proposal
for Amendment of Byron Local Environmental Plan 2014
to introduce minimum lot size controls for ‘manor house’
and ‘multi dwelling housing (terraces)’.**

Byron Shire Council

Authority ref: 26.2019.4.1

V2 Exhibition Version (#E2019/74850)

Date: October 2019

Document History

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E2019/74850	October 2019	V2 Exhibition Version

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Part 1 Introduction

Objective and intended outcomes

This planning proposal is made in relation to *4.1E Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings* of the *Byron Local Environmental Plan 2014* (LEP).

The objective of the planning proposal is to amend Clause 4.1E of Byron LEP 2014 to insert minimum lot size standards for manor houses and multi dwelling housing (terraces). This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the two documents prepared by the NSW Department of Planning and Environment titled *A Guide to Preparing Planning Proposals* (August 2016) and *A Guide to Preparing Local Environmental Plans* (August 2016).

Background

1) Low Rise Medium Density Housing Code (new)

On 6 April 2018 amendments were made to the NSW planning framework to facilitate the development of low rise medium density housing. The amendments came into effect on 6 July 2018 and introduced a range of changes to the following:

- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP). The key change involves the introduction of the new *Low Rise Medium Density Housing Code* (the Code) which will form part of the Codes SEPP.
- *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument), which is the template for LEPs.
- *Environmental Planning and Assessment Regulation 2000* (the Regulation).

This code will allow one and two storey dual occupancies, manor houses and multi-dwelling (terraces) to be carried out under a fast track complying development approval. Low rise medium density housing is only allowed as complying development where the above development types are permitted under a council's local environmental plan.

Dual occupancies are defined in the Standard Instrument—Principal Local Environmental Plan as:

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Manor houses and multi dwelling housing (terraces) are defined in the Codes SEPP as:

manor house means a residential flat building containing 3 or 4 dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall or floor, and
- (b) at least 1 dwelling is partially or wholly located above another dwelling, and
- (c) the building contains no more than 2 storeys (excluding any basement).

multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads

For Byron Shire the new code applies to development in the R2 Low Density Residential Zone, R3 Medium Density Residential Zone and RU5 Village Zone in LEP 2014 (or their equivalent zone in LEP 1988). In the RU5 Village Zone this would only apply to an attached dual occupancy.

The new Code is supported by Design Criteria that are set out in the Low Rise Medium Density Design Guide. *Principle 1 - Context and neighbourhood character* of this guide requires consideration of how the development has responded to identified desirable elements of an area's existing or future character. Council or an accredited certifier can determine if a development application meets the relevant criteria contained in the code.

Council is preparing a residential strategy which will include local area residential character narratives setting out the desirable elements of the area's existing or future character. Concerns of the Code being pre-emptive of the residential strategy and potential character impact were raised with the DPE in May 2018. Council was then invited to submit a formal request to pause the implementation of this Code to Byron Shire until the residential strategy is finished.

To meet the Department's timeframe, staff wrote to DPE on 8 June 2018 requesting this pause. The purpose of the pause was to enable Council to determine the nature and extent of any impacts on its Residential Strategy (in preparation) and supporting planning controls.

At the 21 June 2018 Council Meeting, **18-357** resolved that Council:

2. *Note that staff have written to the Department of Planning (as requested) to seek a pause on the application of the Low Rise Medium Density Housing Code to Byron Shire until the Residential Strategy is finalised.*

Council received a letter from DPE on 13 July 2018 advising that in response to Council's request, the Code would be deferred in the Byron Shire LGA until 1 July 2019.

A subsequent request was made to the Minister to extend the deferment beyond 1 July 2019; however Council has not received a response to date. Preparation of a planning proposal to amend relevant minimum lot size controls is considered prudent in the absence of a favourable response to this request.

2) Community Consultation – Draft Residential Strategy Character Narratives

As part of the draft Residential Strategy public consultation process, Council staff undertook a 'Shaping Our Neighbourhoods' discussion with the community to inform the 'residential character narratives' for each urban town and village. The narratives in turn will assist in updating residential design guidelines for neighbourhoods in Byron Shire. The implications of the Low Rise Medium Density Code were a key topic for discussion and feedback. Feedback was provided via:

- Written submissions
- Discussion board posts on Council's 'Have Your Say' website
- Online Surveys

- Interactive drop-in sessions held across the LGA between 30/4/19 and 13/5/19

Over 80% of survey respondents considered that low rise (2 storey) manor houses should only occur on lots 800m² or larger.

Also of note, specific concerns were raised regarding the effects of overshadowing resulting from low rise medium density development on small blocks (i.e. 600m²).

Concerns over the adequacy of car parking provisions were also raised. It was generally considered that the volume of cars parking on the street is already impacting on streetscapes and the character of neighbourhoods across the Shire, and that this issue would be exacerbated should densities increase due to the Low Rise Medium Density Code.

In addition to impacts on residential character, concerns have been raised over the adequacy of existing infrastructure to meet the demands of higher density development. It is anticipated that the fast track complying development approvals process via the new code may incentivise low rise medium density development and result in an upsurge in these types of applications. Relevant investigations are currently underway to inform the residential strategy with regard to infrastructure.

Part 2 Explanation of provisions

This planning proposal seeks to establish minimum lot size standards in Byron LEP 2014 for the development of manor houses and multi dwelling housing (terraces) in the R2 and R3 zones. These are new development typologies introduced under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP). The following minimum lot size standards are proposed:

Manor house	Zone R2 Low Density Residential,	1,000 square metres
Manor house	Zone R3 Medium Density Residential	800 square metres
Multi dwelling housing (terraces)	Zone R2 Low Density Residential	1000 square metres
Multi dwelling housing (terraces)	Zone R3 Medium Density Residential	800 square metres

Specifically, the planning proposal seeks to amend Clause 4.1E of Byron LEP 2014 by:

- Adding the words 'manor house' and 'multi dwelling housing (terraces)' to the title of the clause.
- Table column 1 – adding '*manor house*' and '*multi dwelling housing (terraces)*' rows.
- Table column 2 – adding '*Zone R2 Low Density Residential, Zone R3 Medium Density Residential*' in the corresponding rows in column 1 to '*manor house*' and '*multi dwelling housing (terraces)*'.
- Table column 3 – adding '*1000 square metres*' in corresponding rows in column 1 to '*manor house*' and '*multi dwelling housing (terraces)*' where Zone R2 is specified in column 2 .
- Table column 3 – adding '*800 square metres*' in corresponding rows in column 1 to '*manor house*' and '*multi dwelling housing (terraces)*' where Zone R3 is specified in column 2 .

It is anticipated that the amended Clause 4.1E will appear in Byron LEP 2014 in a manner similar to that shown below and subject to final Parliamentary Counsel drafting. The proposed amendments are shown as inserted text coloured in *blue*:

4.1E Minimum lot sizes for dual occupancies, *manor houses and multi dwelling housing (terraces)*, multi dwelling housing and residential flat buildings

- (1) *The objective of this clause is to achieve planned residential density in certain zones.*
- (2) *Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.*

Column 1	Column 2	Column 3
<i>Dual occupancy</i>	<i>Zone R2 Low Density Residential, Zone R3 Medium Density</i>	<i>800 square</i>

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Column 1	Column 2	Column 3
<i>(attached)</i>	<i>Residential</i>	<i>metres</i>
<i>Dual occupancy (attached)</i>	<i>Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU5 Village, Zone R5 Large Lot Residential</i>	<i>4,000 square metres</i>
<i>Dual occupancy (detached)</i>	<i>Zone RU1 Primary Production, Zone RU2 Rural Landscape</i>	<i>4,000 square metres</i>
<i>Dual occupancy (detached)</i>	<i>Zone R2 Low Density Residential, Zone R3 Medium Density Residential</i>	<i>800 square metres</i>
<i>Manor house</i>	<i>Zone R2 Low Density Residential,</i>	<i>1,000 square metres</i>
<i>Manor house</i>	<i>Zone R3 Medium Density Residential</i>	<i>800 square metres</i>
<i>Multi dwelling housing (terraces)</i>	<i>Zone R2 Low Density Residential</i>	<i>1000 square metres</i>
<i>Multi dwelling housing (terraces)</i>	<i>Zone R3 Medium Density Residential</i>	<i>800 square metres</i>
<i>Multi dwelling housing</i>	<i>Zone R2 Low Density Residential</i>	<i>1,000 square metres</i>
<i>Multi dwelling housing</i>	<i>Zone R3 Medium Density Residential</i>	<i>800 square metres</i>
<i>Residential flat building</i>	<i>Zone R3 Medium Density Residential</i>	<i>800 square metres</i>

Part 3 Justification

The key objective of the planning proposal is to apply consistent minimum lot size standards to similar development types. The Codes SEPP definitions for manor houses and multi dwelling housing (terraces) state that:

- 'manor house' means a residential flat building; and
- 'multi dwelling housing (terraces)' means multi dwelling housing.

Therefore, for consistency in Byron LEP 2014, manor houses and multi dwelling housing (terraces) should reflect:

- The existing 800 square metre minimum lot size for residential flat buildings and multi dwelling housing in *Zone R3 Medium Density Residential*.
- The existing 1000 square metre minimum lot size for multi dwelling housing in *Zone R2 Low Density Residential*. Residential flat buildings are not a permissible use in the R2 zone so there are no minimum lot size controls, however multi dwelling housing is considered similar in terms of building heights, density and impact on neighbourhood character.

Section A Need for the planning proposal

1 Is the planning proposal a result of any strategic study or report?

Yes.

The planning proposal responds to the amendments in the NSW planning framework to facilitate the development of Low Rise Medium Density Housing, as described in the background section of this report.

Additionally, the existing minimum lot size standards for residential flat buildings and multi dwelling housing were established as part of the investigation to transition Byron LEP 1988 to the new standard instrument LEP (Byron LEP 2014). The proposed amendment seeks to ensure consistency with existing minimum lot size provisions and zone objectives.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes.

The objective of the planning proposal is to amend Byron LEP 2014 to include minimum lot size standards for manor houses and multi dwelling housing (terraces). The best and only means of achieving this objective is through the planning proposal process.

3 Is there a net community benefit?

The Net Community Benefit (NCB) Criteria are identified in the NSW Government's publication *Draft Centres Policy, 2009*, which states that the Net Community Benefit Test should be used to assess the merits of rezoning in the following circumstances:

- proposals to develop within an existing centre where the current zoning does not permit the use

- proposals to develop outside an existing centre where the current zoning does not permit the use
- Proposals to create a new centre.

The main focus of the NCB Test is to ensure that centres remain compact and viable, and linked to existing and proposed transport networks (particularly public transport).

Assessment against the NCB Assessment Criteria is not required for a planning proposal that seeks to add minimum lot size standards for permissible uses in an existing zone.

Section B Relationship to strategic planning framework

1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (in this case the North Coast Regional Plan)?

The planning proposal responds to the amendments in the NSW planning framework to facilitate the development of Low Rise Medium Density Housing, as described in the background section of this report.

Creating additional housing supply via infill development is a key component of the draft Byron Shire Residential Strategy. The proposed minimum lot size provisions support this objective and are consistent with the North Coast Regional Plan - Action 1.1 *"Focus future urban development to mapped urban growth areas"*.

Direction 20 requires that Councils *"Maintain the region's distinctive built character"*. The proposed minimum lot size provisions support this objective by ensuring that the density of development is consistent with existing planning controls, and consequently the existing character of local neighbourhoods. Further work is being undertaken in preparation of the Byron Residential Strategy which will include local area residential character narratives articulating the desirable elements of an area's existing or future character. The Code coming into effect on 1 July 2019 will pre-empt the residential strategy process, including the introduction of relevant LEP and DCP provisions that seek to manage the potential impact of the code.

This proposal to introduce minimum lot size provisions for manor houses and multi dwelling housing (terraces) is an initial step in this regard.

On this basis, the planning proposal is consistent with the NCRP.

2 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Draft Byron Residential Strategy

Refer to comments in Section B (1) above.

Community Strategic Plan - Our Byron Our Future

In 2018, Council adopted a 10 year + Community Strategic Plan 2028 (CSP). The planning proposal is consistent with the following community objective:

Community Objective 4: We manage growth and change responsibly

4.2 Support housing diversity in appropriate locations across the Shire

4.2.1 Establish planning mechanisms to support housing that meets the needs of our community

On this basis, the planning proposal is consistent with Council's CSP.

3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

The State Environmental Planning Policies relevant to this planning proposal are as follows:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP No 33 – Hazardous and Offensive Development	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 50 – Canal Estate Development	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 55 – Remediation of Land	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 64 – Advertising and Signage	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 65 – Design Quality of Residential Apartment Development	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 70 – Affordable Housing (Revised Schemes)	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Affordable Rental Housing) 2009	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX) 2004	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Coastal Management) 2018	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

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State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP (Infrastructure)	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Miscellaneous Consent Provisions) 2007	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State and Regional Development) 2011	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State Significant Precincts) 2005	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

4 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?

Consistency with s9.1 Directions is assessed in the following table:

Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
1 Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	The planning proposal does not contain a provision which is contrary to the operation of this direction.	N/A
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this Direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	The planning proposal does not contain a provision which is contrary to the operation of this direction.	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	The planning proposal does not contain a provision which is contrary to the operation of this direction.-	N/A

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 1

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> (a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate", or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses. 	<p>Priority Oyster Aquaculture Areas (POAA) exist in the lower parts of the Brunswick River. However, there is minimal likelihood that the planning proposal will have adverse impacts on them.</p>	Consistent
1.5 Rural Lands	<p>Applies when:</p> <ul style="list-style-type: none"> (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. <p>A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p> <p>The Rural Planning Principles are:</p> <ul style="list-style-type: none"> (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas, (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State, (c) recognition of the significance of rural land uses to the 	<p>The planning proposal does not contain a provision which is contrary to the operation of this direction.</p>	N/A

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 1

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>State and rural communities, including the social and economic benefits of rural land use and development,</p> <p>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,</p> <p>(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</p> <p>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</p> <p>(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</p> <p>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</p> <p>A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p> <p>The Rural Subdivision Principles are:</p> <p>(a) the minimisation of rural land fragmentation,</p> <p>(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</p> <p>(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</p> <p>(d) the consideration of the natural and physical constraints</p>		

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 1

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	and opportunities of land, (e) ensuring that planning for dwelling opportunities takes account of those constraints.		
2 Environment and Heritage			
2.1 Environment Protection Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i>.</p>	The planning proposal does not contain a provision which is contrary to the operation of this direction.	Consistent

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 1

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
2.2 Coastal Protection	<p>This Direction applies when a relevant planning authority prepares a planning proposal that applies to land identified on SEPP (Coastal Management) 2018 maps as coastal wetlands, littoral rainforests, coastal environment or coastal use area.</p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the <i>Coastal Management Act 2016</i>, and (b) the <i>NSW Coastal Management Manual</i> and associated Toolkit, and (c) the <i>NSW Coastal Design Guidelines 2003</i>, and (d) any relevant Coastal Management Program certified by the Minister. <p>A planning proposal must not rezone land which would enable increased development or more intensive land use on land identified as being affected by current or future coastal hazard.</p>	The planning proposal does not contain a provision which is contrary to the operation of this direction.	Consistent
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the 	<p>The planning proposal does not contain a provision which is contrary to the operation of this direction.</p> <p>Byron LEP14 already contains clauses that facilitate the conservation of Aboriginal and European heritage in Byron Shire.</p>	Consistent

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BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 1

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.		
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p> <p>(a) where the land is within an environment protection zone,</p> <p>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>(c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</p> <p>(i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and</p> <p>(ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>.</p>	This planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>This Direction applies when a relevant planning authority prepares a planning proposal:</p> <p>(a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone;</p> <p>(b) that introduces or alters an overlay and associated clause.</p> <p>A planning proposal must apply the proposed E2 Environmental Conservation or E3 Environmental Management zones, or the overlay and associated clause, consistent with the Northern Councils E Zone Review Final Recommendations.</p>	This planning proposal does not introduce an environmental zone or overlay. This is being dealt with by a separate planning proposal process.	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
3 Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<p>This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p>A planning proposal must, in relation to land to which this Direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. 	The planning proposal does not contain a provision which is contrary to the operation of this direction.	Consistent
3.2 Caravan Parks and Manufactured Home Estates	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) retain provisions that permit development for the 	This planning proposal will not alter the permissibility of caravan parks or manufactured home estates in Byron Shire.	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>purposes of a caravan park to be carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> that would facilitate the retention of the existing caravan park.</p> <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.</p>		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	This planning proposal will not alter the permissibility of home occupations in dwelling houses.	Consistent
3.4 Integrating Land Use and Transport	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent</p>	<p>The planning proposal does not contain a provision which is contrary to the operation of this direction.</p> <p>Manor house and multi dwelling housing (terraces) are new land use definitions that have been introduced at the State level without consultation with</p>	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	<p>Councils on the capacity of existing transport infrastructure (or other critical infrastructure) to service higher density development.</p> <p>Proposed minimum lot size provisions seek to ensure consistency with existing local planning controls, and avoid adverse impacts of unplanned changes to residential densities.</p>	
3.5 Development Near Licensed Aerodrome	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p> <p>The main requirements of the Direction are that Council considers the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.</p>	<p>This planning proposal will not alter provisions that affect land located in the vicinity of any aerodrome.</p>	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
3.6 Shooting Ranges	Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range. A planning proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.	There are no shooting ranges in the vicinity of this planning proposal.	N/A
4 Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.	Proposed changes apply to existing residential zoned land. Subsequent development on land containing acid sulfate soils can be managed at the development application stage.	Justifiably Inconsistent
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	The planning proposal does not contain a provision which is contrary to the operation of this direction.	Consistent
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or	The planning proposal does not contain a provision which is contrary to the operation of this direction.	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>a provision that affects flood prone land.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-</p>		

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>		
4.4 Planning for Bushfire Protection	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination under Division 3.4 of the Act, and prior to undertaking community consultation in satisfaction of Division 3.4 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter 	The planning proposal does not contain a provision which is contrary to the operation of this direction.	Justifiably inconsistent (referral to RFS is required)

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</p> <p>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</p> <p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		
5 Regional Planning			
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The planning proposal is not within this catchment.	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for urban or rural residential purposes.	The planning proposal does not contain a provision which is contrary to the operation of this direction.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	<p>A planning proposal that applies to land located on "within town" segments of the Pacific Highway must provide that:</p> <ul style="list-style-type: none"> (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway; (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, "within town" means areas which, prior to the draft local environmental plan, have an urban zone (eg "village", "residential", "tourist", "commercial", "industrial", etc) and where the Pacific Highway speed limit is less than 80 km/hour. <p>A planning proposal that applies to land located on "out-of-town" segments of the Pacific Highway must provide that:</p> <ul style="list-style-type: none"> (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction; (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (eg "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80 km/hour or 	This planning proposal does not affect commercial or retail uses in proximity to the Pacific Highway.	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	greater.		
5.10 Implementation of Regional Plans	All planning proposals must be consistent with the applicable Regional Plan released by the Minister for Planning.	This planning proposal affects land subject to the NCRP. The planning proposal is consistent with the NCRP for the reasons cited in Section B (1) above.	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
6. Local Plan Making			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of Division 3.4 of the Act, and (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of Division 3.4 of the Act. 	<p>This planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. It does not identify development as designated development.</p>	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	N/A
6.3 Site Specific Provisions	<p>Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p> 	This planning proposal does not seek to allow a particular development to be carried out, or apply site specific provisions.	N/A

Section C Environmental, social and economic impact

- 1 **Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?**
 No. The planning proposal is not likely to adversely impact on critical habitats or threatened species, populations or ecological communities, or their habitats. The proposal will result in larger lot sizes for the construction of manor houses and multi dwelling housing (terraces) than would otherwise be required under the Codes SEPP and the DA Design Guide. It will not permit additional development in any areas with critical habitats or threatened species, populations or ecological communities, or their habitats.

- 2 **Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**
 No. There are no likely negative environmental effects associated with the planning proposal. The proposed amendments are administrative in nature and unlikely to result in any environmental effects. Development applications based on the proposed changes to the Byron LEP 2014 will be subject to a detailed assessment, where the environmental effects are considered. This assessment will consider consistency with the desired future character of the neighbourhood.

- 3 **How has the planning proposal adequately addressed any social and economic effects?**
 Yes. The planning proposal will have a positive social effect. The planning proposal will create consistency in development standards of the Byron LEP 2014 in that the minimum lot size standard for manor houses and multi dwelling housing (terraces) will reflect the existing minimum lot size of residential flat buildings and multi dwelling housing. This consistency will allow Council to meet the objective of Clause 4.1E of the Byron LEP 2014 to achieve planned residential density in certain zones.

 It is not anticipated that the planning proposal will have any negative social and economic effects which need to be addressed as part of the proposal.

Section D State and Commonwealth interests

- 1 **Is there adequate public infrastructure for the planning proposal?**
 Yes. The proposed minimum lot size controls are consistent with existing densities already permissible in the R2 and R3 zones.

 A review of infrastructure requirements as it relates to new residential development is being undertaken as part of the draft Byron Residential Strategy.

- 2 **What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**
 The Gateway determination has yet to be issued. It is anticipated that the Office of Environment and Heritage, Rural Fire Service, Tweed Byron LALC and Arakwal Corporation will be contacted for comment during the public exhibition.

 At this early stage, it appears unlikely that there will be any issues of interest to Commonwealth authorities. State government authorities will be consulted during the public exhibition period in accordance with the Gateway requirements.

Part 4 Mapping

No mapping amendments are proposed.

Part 5 Community consultation

Council will commence community consultation in accordance with the Gateway determination. For the purposes of public notification, the planning proposal is not considered to be low impact as outlined in the NSW DPE's *A guide to preparing local environmental plans* because it is inconsistent with some Section 9.1 Directions. A 28-day public exhibition period is recommended.

Notification of the exhibited planning proposal will include:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the planning proposal; and
- the web sites of Byron Shire Council and the NSW DPE.

Part 6 Project timeline

The proposed timeline for the completion of the planning proposal is as follows:

Estimated completion	Plan making step
June 2019	Decision by Council to support the planning proposal and send for Gateway determination by the NSW DPE.
August 2019	Gateway determination issued by the NSW DPE.
September / October 2019	Public exhibition of planning proposal. Further government agency consultation.
November 2019	Analysis of public submissions. Preparation of Council report.
February 2019	Decision by Council to endorse the planning proposal and submit to the NSW DPE under delegation for finalisation.

Summary and conclusions

On 1 July 2019, manor houses and multi dwelling housing (terraces) will be permissible in the *R2 Low Density Residential* and *R3 Medium Density Residential* zones in the Byron LGA. Consequently, appropriate controls and standards for these new dwelling types are required under Byron LEP 2014 and Byron DCP 2014.

Clause 4.1E of the Byron LEP 2014 relates to minimum lot sizes for housing types other than dwelling houses. The planning proposal amends this clause to include manor houses and multi dwelling housing (terraces).



#E2019/838
Contact: Natalie Hancock
Ph: 66267169

5 July 2019

Ms Lynne Sheridan
Director, Codes and Approval Pathways
Department of Planning and Environment

Email: lynne.sheridan@planning.nsw.gov.au

Dear Lynne

Extension of time on the Low Rise Medium Density Code implementation

I acknowledge the Department's deferment of the Low Rise Medium Density Housing Code (the 'Code') until 31 October 2019 to allow for an independent review, and appreciate the opportunity to provide early input into your review process.

In our analysis of the Code implications for Byron Shire, Council considers that a number of refinements are needed to ensure there is strong alignment with Council's existing and emerging housing policy framework. These are set out below:

1. **Treating minimum lot size requirements for manor houses and terraces the same as other types of low rise medium density (LRMD) housing.** Council has prepared a planning proposal to amend LEP 2014 to include a minimum lot size for manor houses and terraces and forwarded to the NSW Department of Planning and Environment's Grafton Office on Friday 21 June 2019 for a Gateway determination.
2. Allowing Council to **limit the Code's application to specific precincts that meet location, infrastructure and hazard based criteria.** Such areas could be identified in the Residential Strategy and implemented by up zoning to the R3 Medium Density Zone. This could be activated using State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 *Schedule 3 Complying development codes—variations*. The added bonus of using this approach is that Council could link the up zoning with the implementation of SEPP 70 Affordable Housing. As previously advised to the Department of Planning, Council is preparing an affordable housing contribution scheme under State Environmental Planning Policy No 70 Affordable Housing (Revised Schemes). This would be especially beneficial for localities with potential or existing infrastructure capacity issues such as Mullumbimby and the Sun Rise – Byron Bay – Suffolk Park urban areas. Details are provided in Annexure 1.

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3. **Allowing Council to retain the existing regulatory framework for all other R2 Low Density Residential zoned areas**, with such development subject to merit assessment under the normal development assessment process.
4. **Ensuring key density provisions in the Code, such as lot size and gross floor area, are consistent with the Byron LEP provisions for LRMD development.** That is, ensuring LRMD density outcomes are consistent with community expectations and Council's infrastructure planning and servicing. Annexure 1 - Table 1 provides an example of the current anomalies.
5. **Including a requirement for the local character and context statement component of the 'design verification statement' to be completed by a qualified urban designer or architect.** This enables a more consistent and evidence based determination on a subjective description of intangible and tangible values and characteristics of a place. It is also in keeping with the advisory documents on the creation of better places produced by the Government Architect NSW and Department of Planning and Environment such as:
 - Movement and Place
 - Local Character and Place
 - Good Urban Design
 - Urban Design for Regional NSW.

In summary, the introduction of the Code (as currently drafted) to Byron Shire will not only hasten the pace of development but also the density of development. The implications are yet to be factored into its Council's long-term community and infrastructure planning and funding. If the above measures were endorsed and implemented as part of the Department's review, then within **nine (9) months** Council would **be in a strong position to commence introduction** of the Code in Byron Shire. The inclusion of these measures would also send a clear message that the State government supports Byron Shire Council being able to deliver well located, cost effective low rise medium density development that is consistent with community expectations.

Council looks forward to your favourable response to this request.

Yours sincerely



Sharyn French

Acting Director Sustainable Environment and Economy

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Annexure 1**Infrastructure Planning Impacts**

The potential impacts on infrastructure are exemplified in the case of Mullumbimby and Byron Bay:

- **Mullumbimby- impact on water supply security:** Under current development assessment pathway, the town has some 240 lots of 800m² or greater, considered to have potential for low rise medium density development over the next 20 years, some of 175 lots (72%) potentially suitable for fast track assessment under the Code. Council is also undertaking investigations to confirm Mullumbimby's water supply capacity. It would be premature to apply the Code to Mullumbimby until this work is completed.
- **Impacts on the operational capacity of the Pacific Highway interchange and Ewingsdale Road at Byron Bay:** Under the current development assessment pathway, the town has some 330 lots considered to have potential for low rise medium density development over the next 20 years. With the Code, this would jump to some 730 lots, over a two-fold increase for the town. This is equivalent to accommodating another West Byron residential precinct. It would be premature to apply the Code to Byron Bay area until the necessary upgrades are in place. To do so otherwise will exacerbate the frequent grid locked traffic within the town and at the Pacific Highway interchange.

Council's recent correspondence from the Department of Transport Roads and Maritime Services (Jan 2018) in planning for future growth and the operational implications for the Pacific Highway (HW10) confirmed its position that:

'support for any release area (as is the impact of this Code) would be contingent upon Council identifying the scope of infrastructure works and proposed funding sources required to support any proposed release areas'.

... Council and Roads and Maritime are working towards medium to long term infrastructure improvements for Ewingsdale Road and the interchange with the Pacific Highway due to current traffic and safety issues being experienced during peak times. It is reasonable to assume that additional land releases that directly impact this interchange are unlikely to be supported until these medium to longer term improvements are realised.'

Given Council will be excluded from the assessment process under the Code, the only way to properly align infrastructure capacity/delivery with this type of housing is through the refinements recommended in this letter.

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Density impacts

The following is an example of the noticeable inconsistencies between the Code and the LEP.

Table 1 - Gross floor areas yield comparison

Code	LEP 2014
<p>SEPP 3B.35 - Maximum gross floor area of all buildings – terraces</p> <p>The maximum gross floor area of all buildings on a lot is</p> <p><i>Zone RU5, Zone R1 or Zone R2: 60% of lot area</i></p> <p><i>Example of lot 800m² in R2 would yield a potential gfa of 480m²</i></p> <p><i>Zone R3: 80% of lot area</i></p> <p><i>Example lot of 800m² in R3 would yield a potential gfa of 640m²</i></p>	<p>Byron Shire LEP 2014 FSR maps generally set a maximum FSR of:</p> <p>Zone R2: 0.5.1</p> <p><i>Example lot of 800m² in R2 would yield a potential gfa of 400m²</i></p> <p>Zone R3: 0.6.1</p> <p><i>Example lot of 800m² in R3 would yield a potential gfa of 480m²</i></p>

In summary a lot of 800m², developed under the Code has capacity for an additional 80m² to 160m² of gross floor area or equivalent to an additional 1 – 2 dwellings per lot. This higher density could further compound the infrastructure delivery.

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BANGALOW PROGRESS ASSOCIATION

22 Nov 2019**General Manager****Byron Shire Council****Mullumbimby, NSW 2482**Emailed to: submissions@byron.nsw.gov.au**Attn: Mr Steve Daniels****Planning Proposal for Byron LEP Amendment – Minimum Lot Size LRMD Housing**

The past year in the Byron shire has been notable for its intense focus on planning strategy, much of this driven by NSW DPE. The work has involved the development of several strategies which are intended to guide development, with character being a major consideration. This emphasis is reflected in the Residential Strategy and associated Local Character Narratives, the Business and Industrial Lands Strategy and the Bangalow Village Plan. A Community Participation Plan further strengthens the character proposition by formalising community engagement guidelines for various DA categories. These initiatives have been welcomed by the community because they lead to better development outcomes, essential for a heritage village such as Bangalow where the preservation of heritage character is paramount.

- We support the basic aims of the Planning Proposal to introduce tighter definition of dwelling types and to align minimum lot sizes with those specified in Byron LEP 2014. However, we remain very concerned that the introduction of the Low Rise Medium Density Housing SEPP code could create serious collateral issues:
- The need to respect character is especially relevant for Bangalow where the character narrative has been derived from the formally adopted Bangalow Village Plan. The BVP vision statement positions Bangalow as a place “nestled in the hills, surrounded by natural beauty and rich in ecological biodiversity.” This combination of scenic surrounding landscape with a well-preserved heritage village is possibly unique in NSW and its importance to the Bangalow community cannot be overstated.
- The character proposition is well understood within BSC but there is no guarantee that private certifiers will step up to this agenda despite the availability of strategic planning documents. The best guiding statements are often buried within large documents, e.g. Residential Strategy, Bangalow Key Planning Initiative Ba6, “ensure that new developments build on existing residential character and promote a sense of community”.

BANGALOW PROGRESS ASSOCIATION

- Development notification protocols should consider relevant aspects of the BSC Community Participation Plan. When BSC is removed as the regulating authority, a community engagement framework is still needed to avoid disaster scenarios that inevitably occur with unregulated development and private certification. Character compatibility is generally not considered a priority by developers.
- The potential introduction of the LRMD SEPP emphasises the need for BSC to produce published versions of planning strategies. For Bangalow, it also reinforces the urgency of updating DCP 2014 Sect E2.3 and doing a structure plan for the Station St Triangle. Completing these tasks will provide clear and concise guidelines to developers.

Strategic planning activity within BSC has generally embraced the principles of ecologically sustainable development and place based planning. This serves our community well as these concepts are central to the ongoing economic viability of Bangalow. The Low Rise Medium Density SEPP is not consistent with the current direction of strategic planning and community engagement because it allows a certification pathway whereby character considerations can be overwhelmed by other business priorities and become a meaningless box ticking exercise.

We appreciate the attention of Council and BSC staff on this matter and thank them for their ongoing support.

Signed



Ian Holmes
President, Bangalow Progress Association
0414 959 936
6687 2368



COMMUNITY
ALLIANCE for
BYRON SHIRE

COMMUNITY ALLIANCE FOR BYRON SHIRE INC.

A: 18 Elizabeth Avenue, South Golden Beach

E: cabsfuture@gmail.com

M: 0478 280694

General Manager
Byron Shire Council
submissions@byron.nsw.gov.au

22nd November 2019

CABS Submission : **Planning Proposal for Amendment of the Byron Local Environmental Plan 2014 to introduce minimum lot size controls for 'manor house' and 'multi dwelling housing (terraces)'**

The NSW State Government has introduced a number of planning policies that are being applied across the state and will impact on the strategic planning of local government.

The LRMD Code was developed to provide more housing choice and greater affordability by introducing requirements for higher density development in urban areas, particularly in the form of 'manor' houses and 'terrace' style developments.

CABS believes that the implementation of the LRMD Code may have considerable impact on Byron Shire's urban residential areas and requires further explanation and public information regarding how the code would translate and impact on Byron Shire towns and villages.

CABS believes

1. That Council should defer adopting the LRMD Planning Proposal changes and provide more detailed information to the community about the potential impacts by way of information sheets and or articles for publication in local media
2. that council has sought to reduce the impact of LRMD by increasing the lot size requirements and permissibility for the identified uses eg. Manor and terrace housing but has concerns that the LRMD code will negate neighbour notification about the changes, by way of the proposed developments being under Complying Development and this presents concerns in light of the higher densities permissibility in residential zones and the lack of clarity and determination of character and design guidelines and the potential for impacts such as overshadowing of existing development
3. that council should wait for the adoption of the Local Character Statements for urban areas as per the Byron Shire Residential Strategy and then determine if there are 'Special Areas' that need to be mapped for exclusion from the application of the LRMD

4. that it's not clear if council is adopting the Design Guide or whether an amendment to the DCP will be undertaken, it could be that additional controls may further refine design guidelines to ensure that impacts on adjoining properties are reduced (PS 18-007 – LRMD Design Guide for Development Applications)
5. that the proposal fails to anticipate the impact of the LRMD and other proposals such as Affordable Housing SEPP and STRA and more detailed analysis of impact is required in terms of bulk and scale and the impacts on character and infrastructure, including water supply, sewerage management, stormwater and the road network, including parking provisions to service existing commercial centres
6. the proposal must specifically identify Heritage Conservation Areas as being exempt from the application of the LRMD Code
7. the proposal may have an adverse effect of reducing the supply of single housing stock that provides much needed housing for families. It's clear that the code allows higher densities for areas subjected to planning current requirements that limit the density of developments
8. the LRMD Code will act as an incentive for increased development on single lots and also encourage the amalgamation of lots for more intensive density development

Background

The LRMD was primarily developed to address housing choices in Sydney and metropolitan areas and increase the density within footprints that are well serviced by public transport and have supply of water and sewerage undertaken by Sydney Water rather than by local government.

"The aim is to make approvals for these housing types faster and more straightforward, providing greater housing choice and supply."

Byron Shire is in an uncertain position to accept increased density and the associated impacts.

It appears that there hasn't been an analysis of the impact of the code on infrastructure demand and if the impacts of the increased densities can be met by current or planned future infrastructure.

Byron Shire undertook major upgrades of sewerage treatment plants in the Shire in late 1990's and in early to mid 2000's built new plants for the areas of Byron Bay/Sunrise/ Suffolk Park, Bangalow and Mullumbimby / Brunswick.

The capacity design planning for STP's was determined by the settlement strategies which focussed on 'infill' which involved the intensification of density in urban areas which included the opportunities for dual occupancies, secondary dwellings and medium density. The Settlement Strategies were developed to meet population growth for 25 years.

Byron Shire's road network is under extreme pressure and it's clear that increased densities in urban areas will add further pressure on the roads. A major factor impacting on the roads is visitor impact from tourism, including Airbnb in residential areas. The LRMD and

Affordable Housing SEPP assume for higher density residential living the access to efficient public transport.

The Settlement Strategies outcomes for future planning potential was done in accordance with informed community consultation over a period time that included scenarios for the community to respond to and a detailed constraint assessment planning process.

The LRMD Code doesn't apply to non-sewered areas, but CABS believes there are concerns related to the application of this code within sewerred areas. The overall impacts of the code are compounded by other state planning processes including Affordable Housing SEPP and the wide spread use of residential dwellings for tourism use by way of STRA (Airbnb).

In regard to the increased density impact on sewerage management, it's the responsibility of Council to ensure that infrastructure is available to service future growth proposed in planning instruments and it appears the analysis has not been undertaken to ensure this is possible.

The LRMD PP identifies that infrastructure analysis was undertaken for the Byron Shire Residential Strategy, but it was not included and can only be assumed that it has not been undertaken.

The idea that future growth will be accommodated by upgrades to existing STPs is not a matter that should be assumed as some towns and villages may not be able to increase the capacity of the plant due to the constraints of waterways, including Marine Park as receiving environments and this vital issue should be considered prior to adoption of the inclusion of LRMD Code for Byron Shire.

Yours sincerely
Angela Dunlop
On behalf of CABS

JAN BARHAM

PO Box 561, Byron Bay 2481 janbarham@bigpond.com

To: Byron Shire Council
By email

November 2019

SUBMISSION : Low Rise Medium Density Housing Code

I oppose the planning proposal to allow intensified development (manor houses and multi dwelling (terrace) housing in existing residential areas.

I believe the proposed changes will impact on the existing character of Byron Shire localities and will also create additional pressure on infrastructure and that there is no certainty that it can be accommodated.

Byron Shire Council should seek exemption from the LRMD Code and consider other State Planning policies that are impacting on the ability for BSC to responsibly meet the demands of growth and the infrastructure and character impacts of the changes

Why should a place and community wear the impacts of unsustainable growth being foisted upon them.

I believe Byron Shire Council should be presenting a case to the NSW Government that Byron Shire must be exempt from some of the State based intensified development planning proposals that have been formulated including the Affordable Housing SEPP and STRA.

The doubt about the ability to meet additional growth impacts is a compelling reason for opposing the proposed planning changes. Without certainty that infrastructure can meet the demands of growth it should not be supported. I've been unable to locate information / evidence that an analysis of the impact of these changes can be sustainably managed by BSC. It's of great concern and therefore forms the basis of my opposition to these changes.

The "Independent Review Report of the Low Rise Medium Density Housing Code" by Professor Roberta Ryan and Neil Selmon, from the University of Technology, Sydney, July 2019, identified in it's recommendations that

14. Land within the Sydney Drinking Water Catchment that is sewerred but has Sydney Catchment Authority licensing limitations on the number of Equivalent Tenements that may be discharged as treated water into the system, and where that system is close to capacity, should be excluded from the application of the Code.

I believe that this exemption recommendation should also apply to Byron Shire, particularly to the Byron Bay catchment due to the similar constraints on sewerage capacity.

It seems that it's often overlooked that for metropolitan areas, the responsibility to provide sewerage management and infrastructure is not the responsibility of local government. In Sydney, Newcastle and Wollongong, the sewerage responsibility is provided by Sydney Water and there are no constraints to growth placed on councils. The responsibility for the provision of an adequate road network is also an additional burden that regional council's face that metropolitan councils are not required to manage.

In the regions and rural areas, the responsibility for sewer, water and road network infrastructure is with the council.

In the situation for Byron Shire, we have a sensitive environment that has limitations on the capacity to discharge into waterways and as far as I am aware there hasn't been detailed investigations to consider the potential for increased growth.

Byron Shire Sewerage Treatment Plants (STP's) have been designed to meet projected capacity. These design inputs were determined by the 2002 Settlement Strategies and were meant to provide for 25 years of growth.

To allow increased growth without investigation of the ability to manage the pressure it will place on infrastructure does not represent responsible ecologically sustainable development. The principles of ESD require the prior consideration of impacts and place a responsibility on the council to identify if the growth can be managed in accordance with ESD principles.

Byron Shire has a history of the consequences of unplanned growth. In 1997, the sewerage / development moratoriums were placed on Byron Shire due to the unplanned growth that was undertaken without the necessary provision of infrastructure. The outcome of the overloading of the STPs was the pollution of waterways.

It's vital that BSC learns from the past and does not take actions to amend planning instruments to allow additional growth without the provision of infrastructure being considered and the detailed planning required to ensure that any additional growth can be catered for in an ecologically sustainable manner.

Road Network

In relation to the road network, Byron Shire has limitations. Byron Bay is particularly constrained by its geographic location and the fact that there is essentially only one road in and one road out. Without public transport, there is a car dependence and reliance for rural residents. The application of city based planning rules that rely on public transport for greater density and reduced parking requirements for development cannot be delivered in Byron Shire.

Residents in Byron Shire are car dependent and the concept of higher density living is not in principle opposed, but it should not be undertaken on the basis that adequate public

transport exists and that the elimination of parking requirements and therefore car use can be minimised without the provision of alternate transport options.

Higher density development in residential areas will increase the impact on the road network and lead to congested streets and impact on the broader road network. There has been no analysis of this impact and therefore the changes cannot be supported.

Local Strategic Planning Statements and Local Character Statements.

Without finalisation of Local Character Statements, identified in the Draft Byron Shire Residential Strategy and the development of Local Strategic Planning Statements, it's inadvisable to implement planning changes that will impact on local character. It's important to respect the local character of areas of the shire and the potential for these identified areas to be exempt from the LRMD Code should be considered.

It's also important to acknowledge that the 'asset' that is the attractor for the tourism industry may be impacted on by planning changes and that doesn't meet the ESD planning principles on the grounds of social and economic impact.

Byron Shire – A Special Case

The Byron Shire is a 'special case' in relation to planning. The recognition that the shire represents more than the usual case for housing / residential growth appears to have been overlooked. A key consideration that hasn't been considered by the changes that are being imposed by the State Government is that Byron Shire is both a sensitive environment area and a tourism icon. These points require consideration prior to any moves to change the character and deliver the impacts of increased development.

I believe Byron Shire Council should be presenting a case to the NSW Government that Byron Shire must be exempt from some of the State based intensified development planning proposals that have been formulated including the Affordable Housing SEPP and STRA.

BACKGROUND

Low Rise Medium Density Housing Code SEPP

The LRMD Housing Code has been developed for Sydney and metropolitan areas to increase housing density and provide more diversity in the housing market

The premise of increased density and diversity in non regional areas applies differently and primarily due to the provision of infrastructure, especially potable water supply, sewerage and the road network.

Byron Shire Background

Byron Shire previously considered the carrying capacity of the shire and amended the planning rules to provide for greater density, diversity and supply. The lot sizes have been reduced for dual occupancies and residential flat buildings and now with other impacts such as Affordable Housing SEPP and STRA there are unplanned impacts on infrastructure that haven't been assessed.

Byron Council was an initiator of the secondary dwelling affordable housing model to address the unregulated structures that were providing much needed housing but needed to be brought into compliance and the need for additional affordable housing.

The move to waive developer contributions was also a move to support the development of more affordable housing that provided for a market of singles, older persons, (particularly older women) young people, students and low income workers. To ensure that they were used for this purpose for the intention of affordable housing, conditions of consent were placed on these dwellings identifying that short term rental accommodation was prohibited.

The prohibition of use for short term tourism accommodation was also placed on dwelling approvals in residential areas, as the use is prohibited in the zone.

It appears BSC hasn't been able to regulate this use and it is now a major contributor to the lack of housing affordability and availability. State Governments in the past disallowed BSC attempts to strengthen the LEP to prohibit the use and empower it to take action against the prohibited use.

Byron Shire is now in a crucial situation where unapproved use of residential dwellings for STRA is contributing to the unaffordable and unavailable housing. In Byron Bay there are approximately 22% of entire dwellings being used for the purpose of STRA and this is having considerable impact on infrastructure and the social amenity.

Growth

Byron Shire is a desirable lifestyle and tourism destination. Much of it's appeal is the significant natural environment and the low rise character and bulk and scale of the area. The pressure of increased residential growth coupled with the increasing tourism pressure presents a unique situation for future planning.

The concept that increased density will create greater affordability and availability of housing is not supported.

The cost of housing in Byron Shire is high, due to the area's unique appeal. The 'burden' of tourism impacts must be considered in any growth planning for residential areas. There is little separation of these two aspects of the shire's planning in relation to impacts.

The impact of the LRMD Code would be increased density in existing residential areas. The manor houses and terrace multi dwelling capabilities will be seen as an opportunity for the maximisation of development and will have impacts, primarily on STP's and the road network.

It also must be investigated if there is a sufficient potable water supply to meet the needs of additional growth. We are currently in a dry period and the lack of water supply hasn't impacted on the shire since 2002. In that time there has been additional growth and now

with the proposals for increased population and growth, it is vital for water assessment and availability to be considered.

Also, the Byron STP was developed to accommodate not only the residential, commercial and planned tourism growth but also the day tripper impacts. It appears that those inputs to the STP have been overtaken by planning changes imposed by the State and the ever increasing tourism popularity and resultant impacts.

I'm unable to locate any analysis of the current impacts and any modelling of the impacts of proposed future growth, in relation to the growth identified in the Draft Byron Residential Strategy and the impacts of State imposed planning policies.

I question why council accepted the growth targets identified in the North Coast Regional Plan without any consideration of the infrastructure impacts that Council is the responsible authority to provide eg. Sewerage, water, roads, stormwater.

It's clear that the acceptance of the growth targets in the NCRP was done without the consideration of consequences is regrettable and should be revisited.

Byron Shire must present a case for ESD in it's planning instruments and undertake the necessary investigation to assess the case for 'growth' and whether or not Council are able to meet the pressures of growth.

I request that Council not proceed with allowing greater density development in existing residential areas that will impact on its ability to service the growth.

Yours sincerely,

Jan Barham



Mullumbimby Residents Association

November 2019

Submission for Planning Proposal to Introduce Minimum Lot Size Standards For Manor House and Multi Dwelling Housing (Terraces)

1. **MINIMUM LOT SIZE:** We support the move by Council to have the Low Rise Medium Density SEPP be consistent with the present LEP Clause 4.1E for Minimum Lots Sizes in R2 Zone 1000Sqm and in R3 Zone 800sqm. (The SEPP has minimum lot sizes for Terrace House 400 Sqm and Manor Houses 600 Sqm)

2. **FLOOR AREA RATIOS :** We also support that Floor Area ratios be consistent with the current provisions in the LEP 2014 .

2. **GRADUAL INTRODUCTION:** We ask that the Low Rise Medium Density Housing SEPP be introduced with a gradual roll-out to take into account the capacity of present infrastructure to cope with the increase in usage: In Particular ; Sewage Capacity, Drinking Water , Roads , Long Term Car-Parking in the CBD and Recreation facilities.

Dr Sonia Laverty
Mullumbimby Residents Association

Byron Local Environmental Plan 2014

Current version for 31 October 2019 to date (accessed 19 November 2019 at 08:13)

[Part 4 Clause 4.1E](#)

4.1E Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

- (1) The objective of this clause is to achieve planned residential density in certain zones.
- (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if

the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.

Column 1	Column 2	Column 3
Dual occupancy (attached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres
Dual occupancy (attached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU5 Village, Zone R5 Large Lot Residential	4,000 square metres
Dual occupancy (detached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape	4,000 square metres
Dual occupancy (detached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres
Multi dwelling housing	Zone R2 Low Density Residential	1,000 square metres
Multi dwelling housing	Zone R3 Medium Density Residential	800 square metres
Residential flat building	Zone R3 Medium Density Residential	800 square metres



Mullumbimby Residents Association

Submission Low Rise Medium Density Housing SEPP Nov. 2019

The Mullumbimby Residents Association request the issues below be addressed :

1. **MEDIA NOTIFICATION :** That Council write a full article for both local newspapers outlining the details and changes the SEPP will mean for all the residential areas of the Shire. These changes are very significant and yet very few residents know what is coming.
2. **MINIMUM LOT SIZE:** We support the move by Council to have the SEPP be consistent with the present LEP provisions regarding floor Area Ratios and Minimum lots sizes at R2 Zone 1000Sqm and R3 Zone 800sqm. (The SEPP has minimum lot sizes for Terrace House 400 Sqm and Manor Houses 600 Sqm)
3. **GRADUAL INTRODUCTION:** We ask that the SEPP be introduced with a gradual roll-out to take into account the capacity of present infrastructure to cope with the increase in usage: In Particular , Drinking Water, Sewage Capacity, Roads , Car-Parking and Recreation facilities.
4. **SPECIAL LOCAL CHARACTER AREAS:** Council is requested by the NSW Planning Department to investigate Special Local Character Areas in the Shire they wish to be exempt from the SEPP Code. These areas are in addition to the Heritage Conservation Areas which are already exempt. These areas need to be mapped and submitted to the Minister by 1 July 2020 for his approval.
5. **EAST MULLUMBIMBY EXEMPTION:** We ask that the urban area East of the railway line be explored as an exempted Special Local Character Area and that the residents of this area be consulted in this review .This area has many timber houses built from locally sourced timber with great Heritage Value creating an old- worldly neighbourhood charm.

6. CERTIFIERS: We do not agree that certifiers should be given total approval rights for these developments. These developments will bring major changes to an area and should go through the accepted Council Development Application process.

7. INTERPRETATION OF CHARACTER : Certifiers will be required to consider the Local Character of an Area before determining an approval . However, there is no avenue to review their interpretation by either Council , the Community or the Courts.

8. NO NOTIFICATION : We are concerned that the neighbours will not be notified about any development in their area and will have absolutely no way to object or suggest variations to the plan.

9. REDUCTION OF SINGLE HOUSING STOCK: We are concerned that there will always be more profit from developing multi dwelling occupancy units rather than a single house on a block and therefore this will prejudice this type of development and give the developers free hand to demolish and replace single housing stock.

10. PROTECTING HERITAGE : We are concerned about how this SEPP will apply to the Heritage Conservation Areas in Mullumbimby as the SEPP can apply to this area but via the normal Council DA approval process. We ask that the LEP and DCP for Heritage Areas be updated to state that this type of development is not appropriate in Heritage Conservation Areas of single dwelling houses.

From: [donald.maughan](#)
To: [submissions](#)
Subject: FW: Low Rise Medium Density Housing SEPP submission
Date: Thursday, 28 November 2019 9:51:33 AM
Attachments: [MRA Submission Low Rise Medium Density NSW SEPP \(1\).pdf](#)

Dear Council I apologise for being late in getting this submission into you however on behalf of The suffolk Park Progress Association I lodge this submission relating to low Rise Density Housing SEPP

I also apologise for Plagiarising the comments of the Mullumbimby residents Association however their thoughts echo the concerns and thoughts of the Suffolk Park progress Association see attached

This Proposals SEPP as it stands has the ability to destroy the community structure of the Suffolk Park and with out a community structure our village will be a very sad and lonely place

Donald Maughan

President Suffolk Park Progress Association



Mullumbimby Residents Association

Submission Low Rise Medium Density Housing SEPP Nov. 2019

The Mullumbimby Residents Association request the issues below be addressed :

1. **MEDIA NOTIFICATION :** That Council write a full article for both local newspapers outlining the details and changes the SEPP will mean for all the residential areas of the Shire. These changes are very significant and yet very few residents know what is coming.
2. **MINIMUM LOT SIZE:** We support the move by Council to have the SEPP be consistent with the present LEP provisions regarding floor Area Ratios and Minimum lots sizes at R2 Zone 1000Sqm and R3 Zone 800sqm. (The SEPP has minimum lot sizes for Terrace House 400 Sqm and Manor Houses 600 Sqm)
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10. PROTECTING HERITAGE : We are concerned about how this SEPP will apply to the Heritage Conservation Areas in Mullumbimby as the SEPP can apply to this area but via the normal Council DA approval process. We ask that the LEP and DCP for Heritage Areas be updated to state that this type of development is not appropriate in Heritage Conservation Areas of single dwelling houses.

Schedule 3 Form of special disclosure of pecuniary interest

submitted under Clause 4.25 of the Code of Conduct for Councillors

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.24(c) of the Byron Shire Council Code of Conduct for Councillors (the Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

[name of council or council committee (as the case requires)]

Report No. _____ to be held on the _____ day of _____ 201

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 4

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (<i>the identified land</i>)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has interest in the land (e.g. is owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest⁵	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (<i>the subject land</i>) ⁶ [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

⁵ Clause 4.1 of the Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.

⁶ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Code of Conduct has a proprietary interest.



**Planning Proposal
for Amendment of Byron Local Environmental Plan 2014
– Lot 3 DP 592005 and Lot 1 DP 1124504
Corner Coopers Shoot Road and Picadilly Hill Road,
Coopers Shoot**

Byron Shire Council

Authority ref: 26.2018.5.1

V3 Exhibition Version (#E2019/77288)

Date: October 2019

Planning Proposal for Land at Coopers Shoot (#E2019/77288) | October 2019**Document History**

Doc No.	Date Amended	Details Comments eg Resolution No.
E2019/14302	February 2019	V1 Draft Planning Proposal – reported to 21 March Council meeting for gateway
E2019/49350	July 2019	V2 Draft Planning Proposal – Amended to include additional information for gateway
E2019/77288	October 2019	V3 Draft Planning Proposal – Amended to comply with DPIE gateway conditions (Exhibition Version)

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Part 1 Introduction

Objective and intended outcomes

The objective of this planning proposal is to apply the R5 Large Lot Residential zone to an area of approximately 5.53 hectares previously approved for a Community Title subdivision. This will permit the creation of five Torrens Title lots that will each have a dwelling entitlement. Three of the five prospective lots already have a dwelling located on them from previous approvals. Four of the five prospective lots will be zoned R5 and the fifth will remain zoned RU2 Rural Landscape.

Property details and existing zones

This planning proposal relates to land located at the corner of Coopers Shoot Road and Picadilly Hill Road at Coopers Shoot (Figure 1). The land is described as Lot 3 DP 592005 and Lot 1 DP 1124504. Lot 3 has an area of 16.43 hectares and Lot 1 is a closed road with an area of 0.482 hectares. It is an irregular shaped piece of land with a total area of approximately 16.91 hectares. The street address is 4 Picadilly Hill Road, Coopers Shoot.



Figure 1: Subject land

The subject land is currently zoned mostly RU2 Rural Landscape under Byron LEP 2014 (BLEP14) (Figure 2). A small part is also a Deferred Matter that is zoned Rural 1A under Byron LEP 1988 (Figure 3). The Deferred Matter contains a stand of vegetation that Council is considering for inclusion in an environment protection zone.

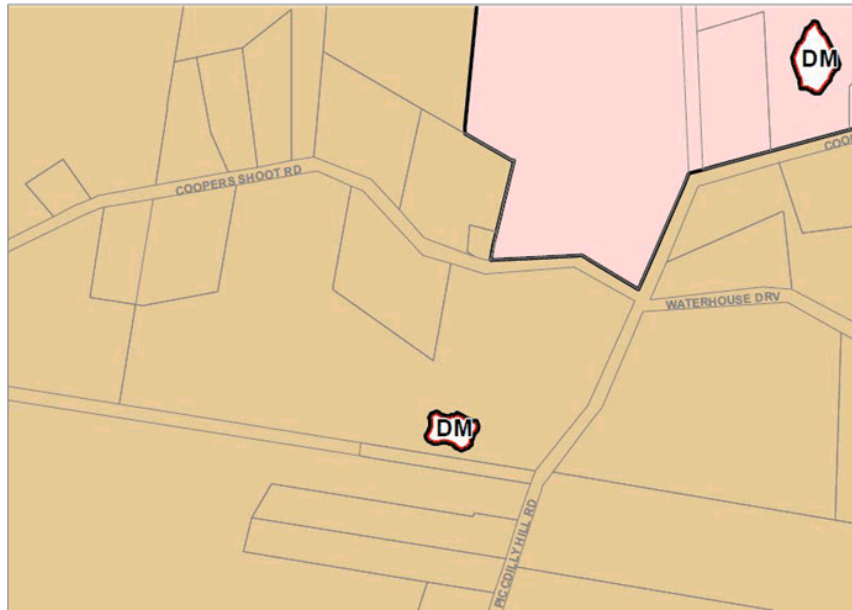


Figure 2: Existing land use zones under Byron LEP 2014 – RU2 Rural Landscape and Deferred Matter

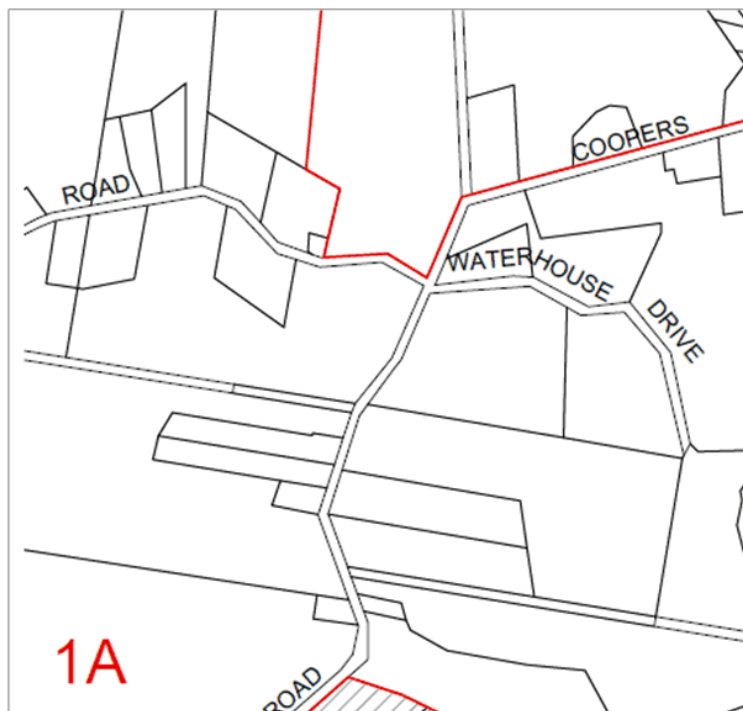


Figure 3: Existing land use zones under Byron LEP 1988 – Rural 1A (the Deferred Matter)

The land subject to BLEP14 has a building height limit of 9 metres (Figure 4) and a Minimum Lot Size of 40 hectares (Figure 5).

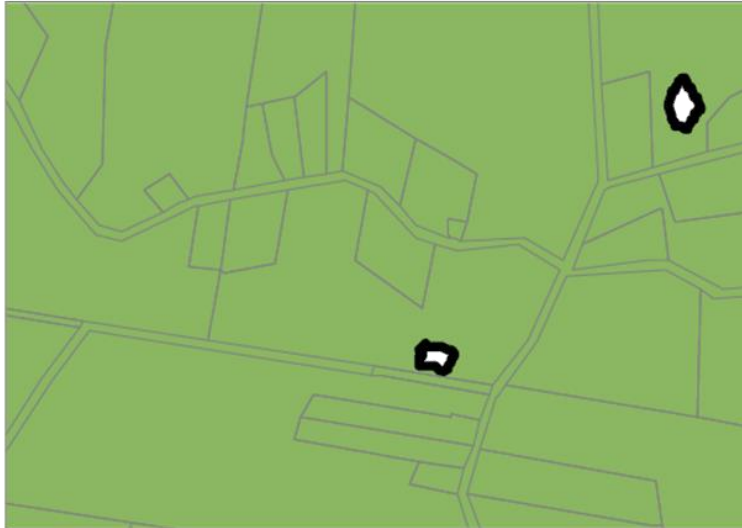


Figure 4: Height of Buildings Map under Byron LEP 2014 – site is 9 metres

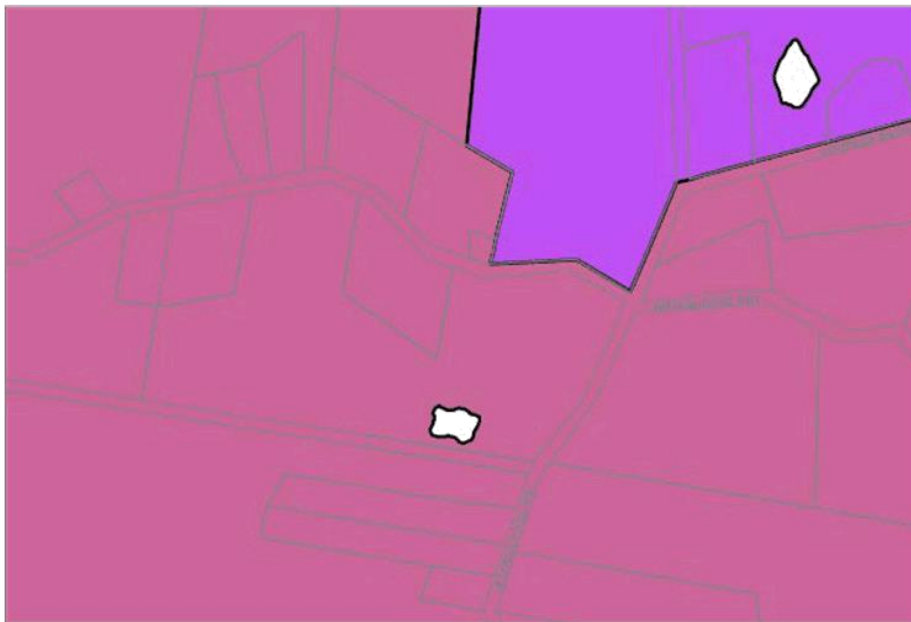


Figure 5: Minimum Lot Size Map under Byron LEP 2014 – site is 40 hectares

It is identified as being within the Wilsons River Drinking Water Catchment (Figure 6).

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Figure 6: Drinking Water Catchment Map under Byron LEP 2014 (site is in the Wilsons River source)

Background

Lot 3, DP 592005 has been owned by the Irwin family for the past 25 years, and has been used for grazing and rural residential uses during that period. In 2009, the owners acquired a piece of Crown road on the southern boundary being Lot 1 DP 1124504.

A multiple occupancy development was approved in 1996, providing for four dwellings (on one lot with no subdivision). An original dwelling was located on the land and two additional dwellings were constructed as a result of this consent. There is a total of three dwellings on the site. The fourth dwelling has never been constructed.

In October 2009, Council approved a Community Title subdivision (DA 94/2009) providing for four (4) house lots and one (1) neighbourhood property of 11.64 hectares. This consent was essentially for a conversion of the existing multiple occupancy approval to a Community Title subdivision. Records show that the subdivision has not been registered.

In July 2018, the (then) NSW Department of Planning and Environment (DPE) endorsed the *Byron Shire Rural Land Use Strategy*. This strategy includes part of the subject land.

The Deferred Matter on the subject land is being considered as part of the "E zone review" and may be included in an environment protection or management zone at some time in the future.

Part 2 Explanation of provisions

The planning proposal seeks to amend the existing zone for part of the subject land under Byron LEP 2014 to:

- permit a five-lot large lot residential subdivision on the subject site; and
- leave the existing Deferred Matter over the environmentally sensitive land (in the absence of an “environmental zone”).

The planning proposal will rezone approximately 5.53 hectares of the existing RU2 Rural Landscape zone to R5 Large Lot Residential. The balance of the subject land will remain in its current RU2 Rural Landscape zone and partly as a Deferred Matter under Byron LEP 1988 (Figure 7).

The planning proposal will also make consequential changes to maps regarding Minimum Lot Size (MLS) to match the proposed R5 Large Lot Residential zone. A variable MLS is proposed to reflect existing development and past approvals on the subject land (Figure 8). Part of the R5 zone will have a 1.5-hectare MLS permitting two lots, and part will have a 0.8-hectare MLS permitting two lots. The remaining RU2 zoned land will have a 10-hectare MLS, which will enable it to be subdivided from the R5 land and have a dwelling erected on it. It is not intended to introduce an FSR to the site (it currently does not apply to the site), and the current Height of Building (9 metres) will be retained.

A “Plain English” version of the clause is as follows:

What Land Does it Apply to?

Part Lot 3 DP 592005 and part Lot 1 DP 1124504. Land at the corner of Coopers Shoot Road and Picadilly Hill Road, Coopers Shoot.

What Additional Development will be Permitted?

A rural subdivision creating a total of five lots (each with a dwelling permitted or existing) that reflects past approvals.

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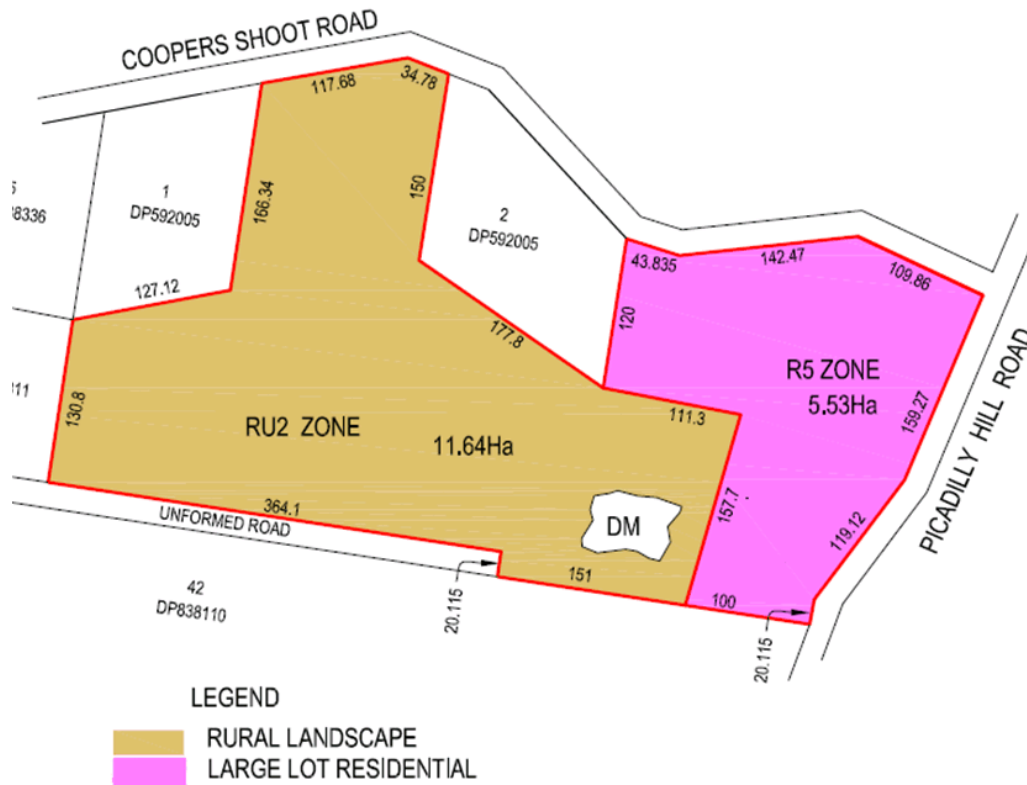


Figure 7: Proposed land use zones under Byron LEP 2014 – RU2 Rural Landscape, R5 Large Lot Residential and Deferred Matter

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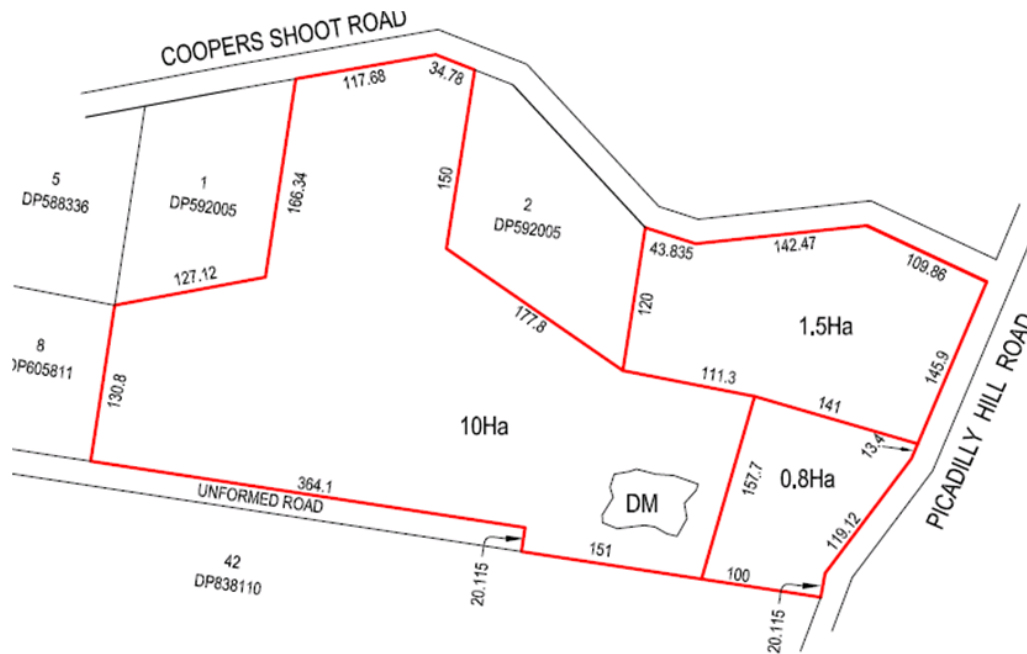


Figure 8: Proposed Minimum Lot Size Map under Byron LEP 2014

Part 3 Justification

Section A Need for the planning proposal

1 Is the planning proposal a result of any strategic study or report?

Yes. The *Byron Shire Rural Land Use Strategy 2017* identifies the subject land as “priority sites for future rural lifestyle living opportunities”. The subject land is identified for “Expansion of adjoining R5 zone over subject land for a maximum of 5 lots (as per current community title subdivision approval)”. This strategy was endorsed by the NSW DPE in July 2018.

Figure 9 shows the subject land as identified in the *Byron Shire Rural Land Use Strategy 2017*.

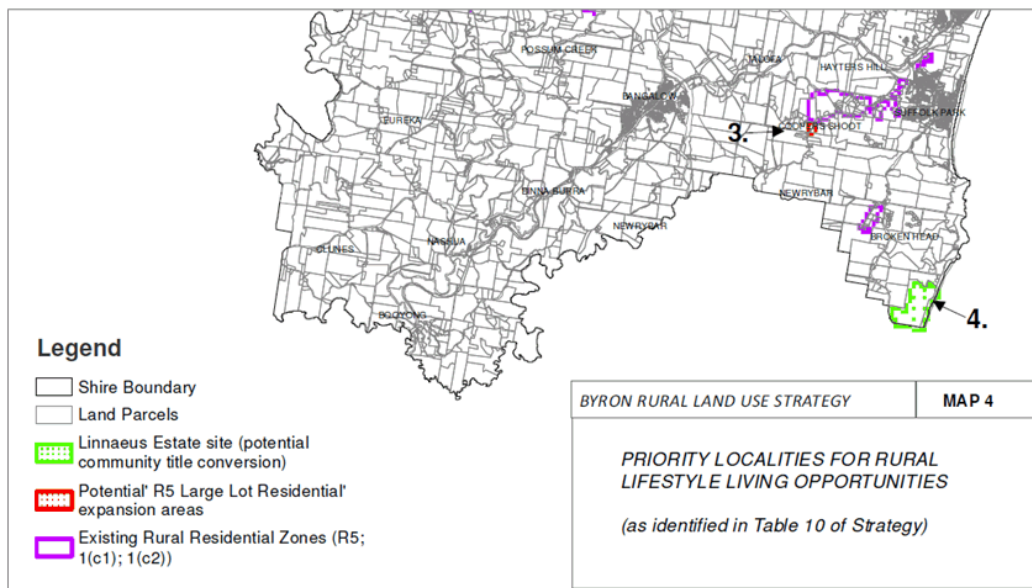


Figure 9: Extract from the *Byron Shire Rural Land Use Strategy 2017* – the site is Area 3 shown in red

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the best means to achieve the objective of permitting large lot residential subdivision on the subject land.

3 Is there a net community benefit?

The Net Community Benefit (NCB) Criteria are identified in the NSW Government’s publication *Draft Centres Policy, 2009*, which states that the Net Community Benefit Test should be used to assess the merits of rezoning in the following circumstances:

- proposals to develop within an existing centre where the current zoning does not permit the use
- proposals to develop outside an existing centre where the current zoning does not permit the use

- proposals to create a new centre.

The main focus of the NCB Test is to ensure that centres remain compact and viable, and linked to existing and proposed transport networks (particularly public transport).

Assessment against the NCB Assessment Criteria is not appropriate for a planning proposal that deals with the rezoning (and consequent subdivision) of a largely existing development.

Section B Relationship to strategic planning framework

- 1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (in this case the North Coast Regional Plan)?**

The subject site is located outside of the Urban Growth Area boundary under the *North Coast Regional Plan 2036* (NCRP). It is located in the coastal strip being located east of the Pacific Highway.

The NCRP states (page 57) “*New rural residential housing will not be permitted in the coastal strip, unless the land is already zoned for this purpose, or is identified in a Department endorsed current or future local growth management strategy (or rural residential land release strategy).*” This is supported by Actions 24.1 and 24.2.

The subject land is identified in the *Byron Shire Rural Land Use Strategy 2017*, which was endorsed by the NSW DPE in July 2018.

On this basis, the planning proposal is consistent with the NCRP.

- 2 Is the planning proposal consistent with the local Council’s Community Strategic Plan, or other local strategic plan?**

The *Byron Shire Rural Land Use Strategy 2017* identifies the subject land (Area 3 – Coopers Shoot Road, Coopers Shoot) as a priority site for future rural lifestyle living opportunities (Figure 10). The strategy notes that the site is limited to five lots.

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Map 4 Reference	Locality	Potential Dwelling Yield (c)	Intersection requiring assessment
1.	McAuleys lane / Bilin Road, Myocum	25-45	Intersection of McAuleys Lane and Mullumbimby Road
2.	Wilsons Creek / Alidenes Rd	15-30	Intersection of Alidenes Road and Wilsons Creek Road
3.	Coopers Shoot Road, Coopers Shoot	- (a)	Not applicable
4.	Linnaeus Estate site Broken Head Road, Broken Head	- (b)	Not applicable
	TOTAL (approximate)	40-75 dwellings	
(a) Expansion of adjoining R5 zone over subject land for a maximum of 5 lots (as per current community title subdivision approval).			

Figure 10: Extract from the *Byron Shire Rural Land Use Strategy 2017*

In 2012, Council adopted a 10 year + *Community Strategic Plan 2022* (CSP). The plan is based on five key themes being Corporate Management, Economy, Environment, Community Infrastructure, Society and Culture. Four of those themes or objectives are relevant to this planning proposal:

Economy: <i>A sustainable and diverse economy which provides innovative employment and investment opportunities in harmony with our ecological and social aims</i>	The planning proposal supports the economy through development and investment in the rural residential opportunities on the subject land, which will create economic growth and demand without major ecological or social concerns.
Environment: <i>Our natural and built environment is improved for each generation</i>	The planning proposal ensures the environment and its resources will be maintained and protected for future generations by restricting development to land with no major environmental significance. The proposed five lots reflect past approvals and mostly existing structures and infrastructure. The site has important ecological areas and these will be protected.
Community Infrastructure: <i>Services and infrastructure that sustains, connects and integrates our communities and environment</i>	The planning proposal builds on three existing dwellings. The site has road access options with direct frontage to both Coopers Shoot Road and Picadilly Hill Road. Power is connected to the site. Water and sewerage are able to be dealt with on-site.

Society and Culture: <i>Resilient, creative and active communities with a strong sense of local identity and place</i>	The subject site is about 5 km from Bangalow and 7km from Byron Bay. Although this is remote from services such as schools, shops, and health facilities this is often the case in rural residential lifestyle based communities. It has an established group of owners that are part of the local community.
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On this basis, the planning proposal is consistent with Council's CSP.

3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

The State Environmental Planning Policies relevant to this planning proposal are as follows:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 44 – Koala Habitat Protection	SEPP 44 specifies that in order for a forested area to be classified as koala habitat, a minimum of 15% of the trees must be species of trees that provide food for koalas. The Byron Coast Comprehensive Koala Plan of Management does not include the subject land in a koala management precinct and does not identify it as having potential koala habitat. No clearing of vegetation is anticipated to implement the planning proposal outcomes beyond any clearing that has been approved in the past. Environment protection zones on this site are being dealt with under a separate planning proposal. This planning proposal complies with the SEPP.
SEPP 55 – Remediation of Land	The site has a range of approvals for dwellings related to past multiple occupancy or community title approvals. A preliminary site investigation was undertaken in June 2019 which indicated no past or present potential contaminating land activities on the site, and considered the site suitable for the proposed rural and rural residential land use. Four of the proposed lots will be located on the sites of existing approved dwelling lots. This planning proposal complies with the SEPP.
SEPP (Primary Production and Rural Development) 2019	<i>The relevant aims of this Policy are:</i> <i>(a) to facilitate the orderly economic use and development of lands for primary production,</i> <i>(b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</i> <i>(c) to identify State significant agricultural land for the</i>

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	<p><i>purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations.</i></p> <p>The subject land is zoned mostly RU2 Rural Landscape under Byron LEP 2014. A small area of vegetated land is Deferred Matter and remains zoned Rural 1A under Byron LEP 1988. This vegetated land is already protected and has been fenced off and subject to habitat rehabilitation. All of the subject land is regionally significant agricultural land in the Northern Rivers Farmland Mapping Project.</p> <p>The subject land is not identified as State significant agricultural land.</p> <p>The planning proposal will permit an existing community title based rural residential cluster to convert to a Torrens Title subdivision plus one lot on the rural zoned residue. It will result in five dwellings on five lots. The site is isolated from commercial agriculture by its location and surrounding small lot subdivision. This should minimise the likelihood of significant impact on surrounding rural land. Most of the good agricultural land will be held in one residue lot that will remain zoned RU2 and provides an opportunity for small scale agriculture. Water resources are unlikely to be impacted any further than that resulting from existing rural dwelling approvals.</p> <p>The planning proposal is consistent with the SEPP</p>

4 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?

Consistency with the s9.1 Directions is assessed in the following table:

Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
1 Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	This planning proposal will not affect the boundaries or extent of business or industrial zones.	N/A
1.2 Rural Zones	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>Under this Direction a planning proposal must:</p> <p>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</p>	<p>This planning proposal will rezone approximately 5.53 hectares of RU2 zoned land to R5 Large Lot Residential. This is inconsistent with the Direction. However, the land is specifically identified in the <i>Byron Shire Rural Land Use Strategy 2017</i> for closer rural settlement. The strategy was endorsed by the NSW DPE in July 2018.</p> <p>The subject land will have the potential for a five-lot subdivision consistent with its previous Community Title approval for a five-lot subdivision.</p> <p>Four of the lots will be clustered in the R5 zoned land and the fifth lot will be the residue land that will remain zoned RU2 Rural Landscape and be available for small scale agriculture.</p> <p>The inconsistency is considered to be of minor significance.</p>	Justifiably inconsistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development. 	<p>This planning proposal will permit small lot subdivision and subsequent use of the lots for dwellings.</p> <p>The dwellings will be incompatible with the use of the site for development of resources or extractive industry. However, the site is already constrained by past consents for community title lots that are incompatible with the use of the site for development of resources or extractive industry.</p> <p>The inconsistency is considered to be of minor significance.</p>	Justifiably inconsistent
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> (a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate", or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses. 	<p>Priority Oyster Aquaculture Areas (POAA) exist in the lower parts of the Brunswick River. However, there is minimal likelihood that the planning proposal will have adverse impacts on them as this site is within the Wilsons River catchment.</p>	Consistent
1.5 Rural Lands	<p>Applies when:</p> <ul style="list-style-type: none"> (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. 	<p>This planning proposal will alter the boundary of an RU2 Rural Landscape zone to change it to R5 Large Lot Residential. However, the area affected is already subject to a small lot Community Title subdivision. The majority of the site will remain in the RU2 zone.</p> <p>It will also alter the minimum lot size for the residue part of the RU2 zone to allow a dwelling on this land as a separate lot to the R5 land. The minimum lot size of the R5 zone is tailored to reflect the existing</p>	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>A planning proposal to which clauses (a) and (b) apply must:</p> <ul style="list-style-type: none"> a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement b) consider the significance of agriculture and primary production to the State and rural communities c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities f) support farmers in exercising their right to farm g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses h) consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land i) consider the social, economic and environmental interests of the community. <p>A planning proposal to which clause (b) applies must also</p>	<p>Community Title approval.</p> <p>The planning proposal is consistent with the NCRP and is identified in an endorsed local strategy. There is currently no local strategic planning statement adopted by Council.</p> <p>The development that will result from the planning proposal will not undermine the rural economy and will not alter the significance of agriculture to the local or State economy.</p> <p>Supporting information shows that it will not impact on the biodiversity or water resources or cultural heritage of the site. The biodiversity has been significantly altered by past land uses and the areas that remain of value are included in a deferred area being considered for an environment protection zone.</p> <p>The subject land has sufficient house sites to cater for the proposed number of lots and the balance of the land will be held as a larger holding.</p> <p>In relation to right to farm, it is unlikely to dislocate agriculture on the subject land as the dwellings mostly already exist. There is also unlikely to be conflict with the land adjacent to it. It will not impact on the surrounding rural land use generally as the agricultural uses will mostly be separated by rural roads and other lifestyle lots.</p> <p>The land to be fragmented is already subject to a Community Title subdivision so it is fragmented already. The larger piece of rural land will remain in a single title with some potential for small scale agriculture. Overall, the proposed small lots will likely occupy about 33% of the 17-hectare site.</p>	

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>(i) is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres</p> <p>(ii) is necessary taking account of existing and future demand and supply of rural residential land.</p>	<p>Conflict with surrounding rural land uses is unlikely given the location of the proposed lots on the eastern edge towards the centre of the lot. The nearest small scale commercial agriculture is grazing on the subject land and adjacent lots. Despite being regionally significant agricultural land, the dominant land use in this locality is "lifestyle lots" that produce very little. The subject land is not State significant agricultural land.</p> <p>The social and environmental interests of the community are not undermined by the planning proposal and the impact on agricultural production in the LGA will be limited.</p> <p>In relation to changing the minimum lot size, this is a logical consequence of applying the R5 zone to part of the land. The RU2 minimum lot size is changing to permit a dwelling on the residue lot. This will not generate conflict and will not affect rural industries or supply chains. The residue part of the land to remain as RU2 has a number of potential dwelling locations, has frontage for access to Coopers Shoot Road and will have the same potential for agriculture as it does now.</p> <p>The site will be rural residential reflecting its existing use. It is reasonably located in relation to human services at Bangalow and Byron Bay.</p> <p>The provision of five small lots on this site is consistent with the supply and demand analysis in the <i>Byron Shire Rural Land Use Strategy 2017</i>.</p>	

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13.8 - ATTACHMENT 1

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
2 Environment and Heritage			
2.1 Environment Protection Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".</p>	<p>This planning proposal does not alter or remove any environment protection zone. No environmental standards will be reduced by the proposed LEP changes.</p> <p>In Byron Shire, environmental zones are being dealt with as a separate process, including this site. The site has a Deferred Matter on it, which is an area of vegetation (regenerating rainforest) being considered for inclusion in an environmental zone.</p>	Consistent
2.2 Coastal Protection	<p>This Direction applies when a relevant planning authority prepares a planning proposal that applies to land identified on SEPP (Coastal Management) 2018 maps as coastal wetlands, littoral rainforests, coastal environment or coastal use area.</p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the <i>Coastal Management Act 2016</i>, and (b) the <i>NSW Coastal Management Manual</i> and associated Toolkit, and (c) the <i>NSW Coastal Design Guidelines 2003</i>, and (d) any relevant Coastal Management Program certified by the Minister. <p>A planning proposal must not rezone land which would enable increased development or more intensive land use on land identified as being affected by current or future coastal hazard.</p>	<p>The subject land is not affected by coastal environment area, coastal use area, coastal wetlands and littoral rainforest mapping.</p>	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. 	<p>The site has no European heritage items located on it.</p> <p>An Aboriginal Cultural Heritage site inspection report was undertaken by the Tweed Byron Local Aboriginal Land Council (TB LALC) in October 2018, and no cultural material or objects were observed on the site. An AHIMS search undertaken by the LALC indicates that there are no registered Aboriginal sites on the subject land or in proximity to it.</p> <p>BLEP14 already contains clauses that facilitate the conservation of Aboriginal and European heritage in Byron Shire.</p>	Consistent
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p> <ul style="list-style-type: none"> (a) where the land is within an environment protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration: <ul style="list-style-type: none"> (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and (ii) the provisions of the guidelines entitled <i>Recreation</i> 	<p>This planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.</p>	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<i>Vehicles Act 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.</i>		
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>This Direction applies when a relevant planning authority prepares a planning proposal:</p> <ul style="list-style-type: none"> (a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone; (b) that introduces or alters an overlay and associated clause. <p>A planning proposal must apply the proposed E2 Environmental Conservation or E3 Environmental Management zones, or the overlay and associated clause, consistent with the Northern Councils E Zone Review Final Recommendations.</p>	This planning proposal does not introduce an environmental zone or overlay. This is being dealt with by a separate planning proposal.	N/A
3 Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<p>This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and 	This planning proposal will add approximately 5.53 hectares of the subject land to the R5 Large Lot Residential zone. It will not permit significant residential development (only five lots).	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(d) be of good design.</p> <p>A planning proposal must, in relation to land to which this Direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>		
3.2 Caravan Parks and Manufactured Home Estates	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> that would facilitate the retention of the existing caravan park.</p> <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are</p>	<p>This planning proposal will not alter the permissibility of caravan parks or manufactured home estates on the subject land.</p>	N/A

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	required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	This planning proposal will not alter the permissibility of home occupations on the subject land.	N/A
3.4 Integrating Land Use and Transport	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled,</p>	This planning proposal will extend the R5 Large Lot Residential zone to approximately 5.53 hectares of the subject land. This will not permit significant residential development and will not have a significant impact on transport.	Consistent

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	<p>especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>		
3.5 Development Near Licensed Aerodrome	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p> <p>The main requirements of the Direction are that Council considers the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.</p>	This planning proposal will not alter provisions that affect land located in the vicinity of any aerodrome.	N/A
3.6 Shooting Ranges	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.</p> <p>A planning proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.</p>	There are no shooting ranges in the vicinity of this planning proposal.	N/A
4 Hazard and Risk			
4.1 Acid Sulfate Soils	<p>Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p> <p>A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has</p>	The land to which this planning proposal applies is not mapped as containing acid sulfate soils.	N/A

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	considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.		
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	This planning proposal does not impact on any mine subsidence area. The site is partly steep and contains two gullies that are potentially unstable. However, the area identified for inclusion in the R5 zone is predominantly moderately sloping and has adequate dwelling sites (or existing dwellings). Four of these were approved under previous consents. The larger residue area of RU2 land also has multiple dwelling sites on moderately sloping land. Sloping land is a minor issue on this site.	Consistent
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood	This planning proposal does not apply to land that is flood affected. The subject land is Coopers Shoot hill and thus at the head of the drainage catchment. A flood and stormwater assessment supplied with the planning proposal identifies two gullies on the subject land that carry stormwater back into the Wilson River system. The water levels within the gullies rise and fall and dissipate quickly in storm events and do not impact on any of the existing or proposed dwelling sites.	N/A

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	<p>impacts to other properties,</p> <p>(c) permit a significant increase in the development of that land,</p> <p>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</p> <p>(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</p> <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>		
4.4 Planning for Bushfire Protection	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of</p>	<p>The subject land is partly classified as affected by a bushfire buffer in the north-east corner.</p> <p>A Bushfire Hazard Report has been provided relevant to this planning proposal and it recommends that small APZs be applied in some locations in</p>	Inconsistent (referral to RFS is required)

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>the NSW Rural Fire Service following receipt of a Gateway determination under Division 3.4 of the Act, and prior to undertaking community consultation in satisfaction of Division 3.4 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which link 	<p>combination with construction to BAL 19 in some locations and provision for firefighting water on-site.</p> <p>The report states:</p> <p><i>Due to the cleared nature of the site and the buffer around the site created by the public roads this low risk situation is further aided by the characteristics of the existing community title subdivision, the close proximity of the site to the Bushfire Service at Suffolk Park, and high rainfall of the area. The proposed development site is unlikely to come under severe bush fire risk.</i></p> <p>Although the planning proposal seeks to make use of an existing CT approval, it will still need to be referred to the Rural Fire Service.</p> <p>Consultation with the Rural Fire Service has not yet taken place and the inconsistency remains until that occurs.</p>	

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	to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.		
5 Regional Planning			
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The planning proposal is not within this catchment.	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for urban or rural residential purposes.	<p>The land is identified as regionally significant farmland under the Northern Rivers Farmland Protection Project. It is not mapped as Biophysical Strategic Agricultural Land (BSAL).</p> <p>A planning proposal may be inconsistent with the terms of this Direction if it is consistent with the <i>North Coast Regional Plan 2036</i> (NCRP).</p> <p>The NCRP states that rural residential uses should be directed away from important farmland (Action 11.1). However, it also recognises that agricultural production may not be suitable on some small areas of mapped farmland due to non-physical factors. Important farmland variation criteria can be used to assess the suitability of this land for non-agricultural land uses (page 38). An assessment of the proposed R5 land against these criteria is at Appendix 1. This assessment shows that the proposed R5 land is small and not suitable for agricultural production due to its long history of rural residential use as well as proximity to other rural residential areas.</p> <p>The subject land is also within an adopted rural residential strategy that has been endorsed by the NSW DPE and this is consistent with the NCRP (Actions 24.1 and 24.2).</p>	Justifiably inconsistent
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	<p>A planning proposal that applies to land located on "within town" segments of the Pacific Highway must provide that:</p> <p>(a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway;</p> <p>(b) development with frontage to the Pacific Highway must consider the impact the development has on the safety</p>	This planning proposal does not affect commercial or retail uses in proximity to the Pacific Highway.	N/A

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	<p>and efficiency of the highway; and</p> <p>(c) for the purposes of this paragraph, "within town" means areas which, prior to the draft local environmental plan, have an urban zone (eg "village", "residential", "tourist", "commercial", "industrial", etc) and where the Pacific Highway speed limit is less than 80 km/hour.</p> <p>A planning proposal that applies to land located on "out-of-town" segments of the Pacific Highway must provide that:</p> <p>(a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction;</p> <p>(b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and</p> <p>(c) for the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (eg "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80 km/hour or greater.</p>		
5.10 Implementation of Regional Plans	All planning proposals must be consistent with the applicable Regional Plan released by the Minister for Planning.	This planning proposal affects land subject to the NCRP. The subject land is identified in the <i>Byron Shire Rural Land Use Strategy 2017</i> , which was endorsed by the NSW DPE in July 2018. The planning proposal is therefore consistent with Actions 24.1 and 24.2 of the NCRP.	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
6. Local Plan Making			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of Division 3.4 of the Act, and (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of Division 3.4 of the Act. 	<p>This planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. It does not identify development as designated development.</p>	N/A

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	N/A
6.3 Site Specific Provisions	<p>Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p> 	<p>This planning proposal does seek to allow a particular development to be carried out.</p> <p>In this case, the planning proposal is using the existing R5 Large Lot Residential zone, which is consistent with this Direction.</p> <p>The site has a long history and Council considers it is reasonable that it now be recognised in an R5 zone as a rural residential subdivision. It uses a Minimum Lot Size (MLS) that is not currently available in Byron LEP 2014 (1.5 hectares) for part of the R5 zone but this is a minor change to the LEP and this MLS will be available to be used on other R5 land in Byron Shire if appropriate.</p> <p>The planning proposal does not contain schematic drawings.</p>	Justifiably inconsistent

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Section C Environmental, social and economic impact**1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?**

No. The planning proposal will allow the creation of five lots over land that has been used for rural residential purposes for many years. Minimal clearing will be involved, if any.

However, ecological mapping over the site and the environmental zones that flow from it is the subject of a current review by Council. A small Deferred Matter on this site is being considered for inclusion in an E zone.

No environmental zones are being altered in this planning proposal as they are being dealt with in a separate planning proposal that needs to run its course. Any future development applications for either subdivision or dwellings will be subject to the zoning and SEPPs that prevail at the time and dealt with on merit.

The site has been subject to environmental restoration and repair as part of previous development approvals.

It is highly unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the planning proposal.

2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The subject site is currently used for rural residential purposes with a larger lot still used for grazing. Residents of the three dwellings that exist are self-contained for water supply and wastewater treatment and disposal. This is intended to continue. The planning proposal will allow a different form of land ownership and one additional dwelling but not much else is likely to change.

3 How has the planning proposal adequately addressed any social and economic effects?

The planning proposal will have minimal social and economic effects as the site is already well established as a small rural residential enclave. Any housing that may come onto the market will not be affordable to average income earners but will likely suit "tree changers" or investors. Construction of up to two new dwellings will be a positive impact for the local industry if local persons are used. Building and property maintenance will be required on an ongoing basis. Home based businesses may result if dwellings are permitted on the site. The larger RU2 zoned residue land may be suitable for small scale agriculture of some sort.

Section D State and Commonwealth interests**1 Is there adequate public infrastructure for the planning proposal?**

Existing and future rural residents will be responsible for water supply and on-site wastewater disposal. Public roads will be used to access existing and proposed dwelling locations. Both Coopers Shoot Road and Picadilly Hill Road are in poor condition.

Reticulated power and telecommunications are connected to the site and to the existing dwellings.

State infrastructure such as schools and hospitals are located at Byron Bay, and will be able to deal with the additional population if additional dwellings are permitted on the site.

There is adequate public infrastructure to deal with the proposed rural residential development permitted by the planning proposal as it will result in only one more dwelling that can be erected on the site and only two more than currently exist.

2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Gateway determination was issued on 6 August 2019. It requires that the Department of Planning, Industry and Environment, Rural Fire Service, Rous Water, Tweed Byron LALC and Arakwal Corporation are to be contacted for comment during the public exhibition.

It is unlikely that there will be any issues of interest to Commonwealth authorities. State government authorities will be consulted during the public exhibition period in accordance with the Gateway requirements.

The following table provides a summary of the relevant public authorities which should be consulted in accordance with the Gateway determination:

Public authority/stakeholder	Issue requiring comment
Department of Planning, Industry and Environment	Consideration of ecology and Aboriginal archaeological matters
Rural Fire Service	Bushfire issues
Rous Water	Water infrastructure
Jali LALC and Arakwal Corporation	Aboriginal cultural heritage and archaeological matters

Part 4 Mapping

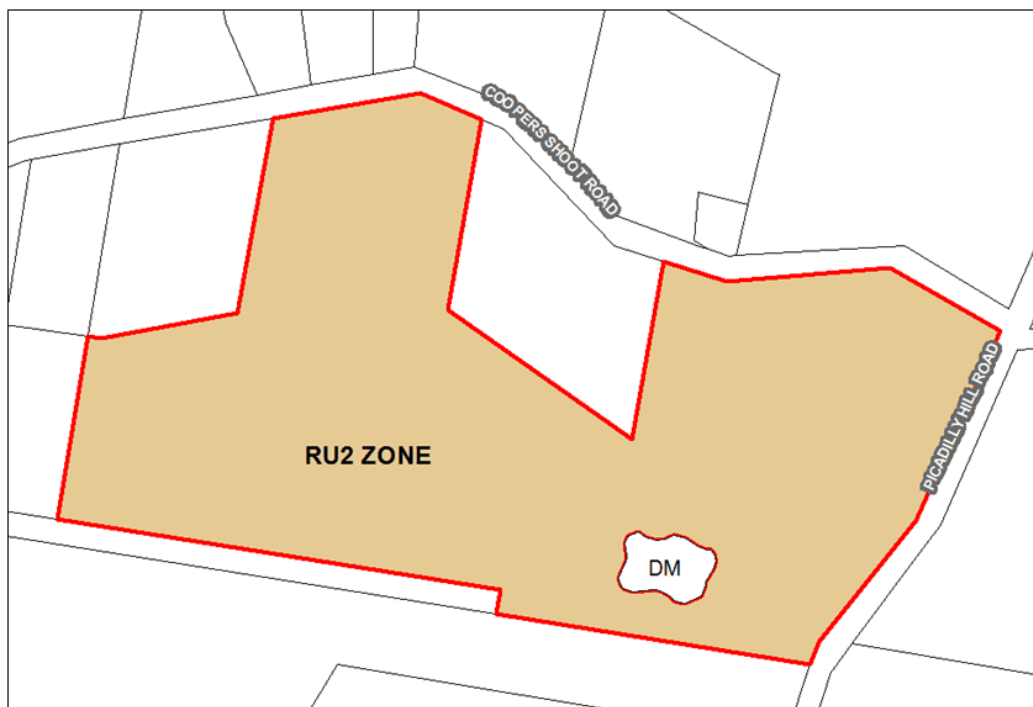
The planning proposal will amend the following Byron LEP 2014 maps for the subject land:

- Land Zoning Map – Sheet LZN_003CB
- Lot Size Map – Sheet LSZ_003CB

Zone	Minimum Lot Size	Height of Buildings	FSR
R5	1.5 hectares and 0.8 hectares	9 metres (unchanged)	None (unchanged)
RU2	10 hectares	9 metres (unchanged)	None (unchanged)

Note: The small area of the subject land (Deferred Matter) that is subject Byron LEP 1988 is not affected by this planning proposal.

Figure 11: Existing land use zones under Byron LEP 2014 – RU2 Rural Landscape and Deferred Matter



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Figure 12: Proposed land use zones under Byron LEP 2014 – RU2 Rural Landscape, R5 Large Lot Residential and Deferred Matter

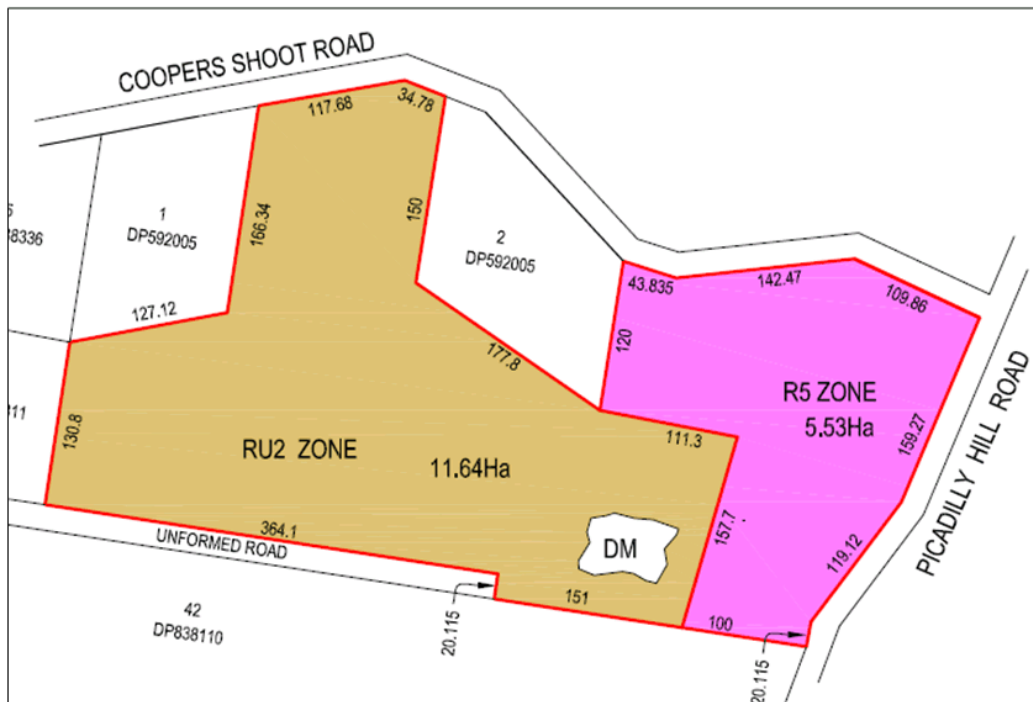
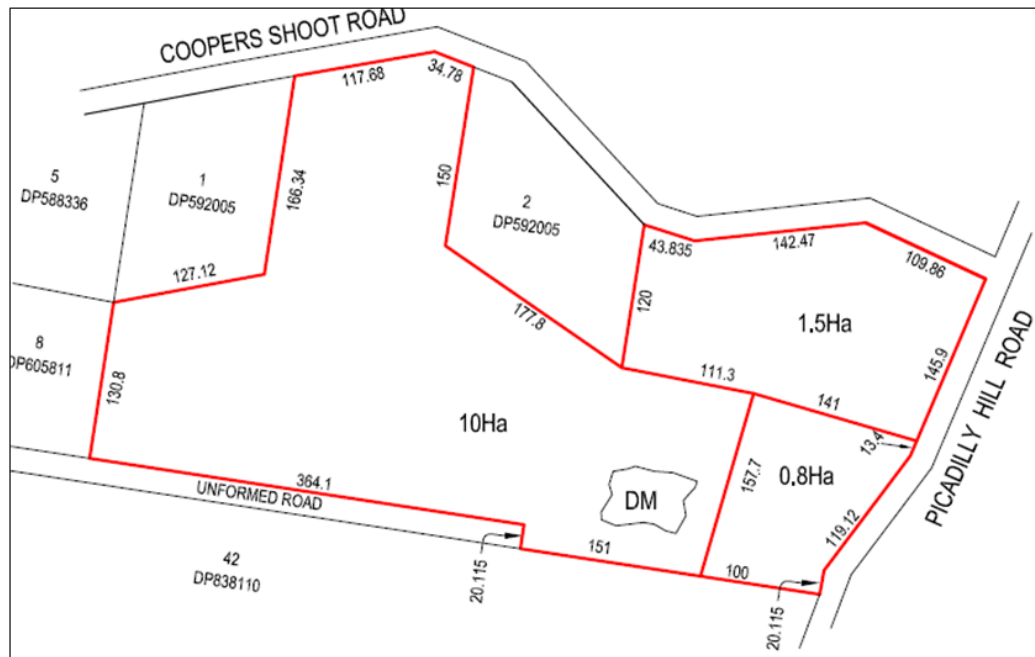


Figure 13: Existing Minimum Lot Size Map under Byron LEP 2014



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Figure 14: Proposed Minimum Lot Size Map under Byron LEP 2014



Part 5 Community consultation

Council will commence community consultation in accordance with the Gateway determination issued on 6 August 2019. For the purposes of public notification, the planning proposal is not considered to be low impact as outlined in the NSW DPE's *A guide to preparing local environmental plans* because it is inconsistent with some Section 9.1 Directions. Although it has been widely exhibited and considered by the public as part of the *Byron Shire Rural Land Use Strategy 2017*, a 28-day public exhibition period is required.

Notification of the exhibited planning proposal will include:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the planning proposal; and
- the web sites of Byron Shire Council and the NSW DPIE.

The supporting studies and information supplied with the planning proposal submission will also be included in the exhibition material.

Part 6 Project timeline

The proposed timeline for the completion of the planning proposal is as follows:

Estimated completion	Plan making step
21 March 2019	Decision by Council to support the planning proposal and send for Gateway determination by the NSW DPIE.
6 August 2019	Gateway determination issued by the NSW DPIE (minor conditions).
October/Nov 2019	Public exhibition of planning proposal. Further government agency consultation.
December 2019	Analysis of public submissions. Preparation of Council report.
February 2020	Decision by Council to endorse the planning proposal and submit to the NSW DPIE under delegation for finalisation.

Summary and conclusions

This planning proposal seeks to amend BLEP14 to rezone approximately 5.53 hectares of land to R5 Large Lot Residential. It will also alter the Minimum Lot Size map for the subject land to permit four lots in the R5 zone and one in the remaining RU2 zone (five-lot subdivision). All lots will have a dwelling entitlement.

The land has been subject to a number of previous development applications for multiple occupancy development and Community Title subdivision. This has resulted in approval for four lots that have the ability to be used as dwellings subject to Council approval. Three dwellings have been approved and exist already.

The lots will be capable of supplying their own tank water and on-site wastewater disposal. Reticulated power and communication infrastructure is available. The site has two public roads for access, both in poor condition. The land does not contain ASS and has no serious geotechnical issues that would prevent its development. The planning proposal is not likely to have an adverse impact on significant agricultural lands despite it being regionally significant agricultural land.

A preliminary assessment of land contamination pursuant to SEPP 55 has been carried out including a review of available historical information, and a detailed site inspection. This indicated no past or present potential contaminating land activities on site. The land is expected to be suitable for the proposed land use. This report will be available as part of the public exhibition material.

The site is not coastal and does not contain coastal wetlands, littoral rainforest or other significant habitat areas. A small area of native vegetation on the site is not involved in the rezoning and it is not intended that this area would be impacted by future development.

The proposed zone change is consistent with the NCRP. The land is identified in the *Byron Shire Rural Land Use Strategy 2017* as a candidate area for rural residential use based on existing consents. An assessment of the planning proposal indicates that it is

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consistent with relevant SEPPs. It is consistent with most of the relevant Section 9.1 Directions, and where inconsistencies occur they can be justified.

The planning proposal was endorsed by Council and sent to the NSW DPIE for a Gateway determination. The Gateway was issued on 6 August 2019 subject to minor changes and updates. It can now be publicly exhibited for not less than 28 days.

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Appendix 1

Important Farmland Interim Variation Criteria Assessment
(Based on Appendix B of the *North Coast Regional Plan 2036*)

Important Farmland Interim Variation Criteria

Land may be suitable for uses other than farmland if:

Agricultural capability	The land is isolated from other important farmland and is not capable of supporting sustainable agricultural production
Comment:	The land to be included in the R5 zone has a total area of 5.53 hectares and is adjoining an existing R5 zoned area across Coopers Shoot Road. It has three houses on it and a fourth will be built in due course. It has a longstanding approval for a Community Title subdivision allowing four dwellings. The approved CT lots are between 0.81 hectares and 2.26 hectares in area so the area is already effectively fragmented and isolated from agriculture. The RU2 residue that will be left if the R5 land is subdivided will be larger than 10 hectares and may support small scale agriculture. A steep gully separates the most arable land from the proposed R5 land and the gully may act as a buffer of sorts. A dwelling is proposed on the RU2 residue land and this will allow a future farmer of this land to live on it.
Land use conflict	The land use does not increase the likelihood of conflict and does not impact on current or future agricultural activities in the locality
Comment:	With three of the five dwellings already in existence the majority of the development already exists and conflict is minimal. The likelihood of increased conflict is low due to the fourth dwelling being in a cluster with the existing three. The fifth dwelling will be sited on a lot over 10 hectares in size and needs to be assessed carefully so as to not create problems or lose good land. Future agriculture in the locality is unknown. There is no obvious emerging agricultural industry at the moment.
Infrastructure	The delivery of infrastructure (utilities, transport, open space, communications and stormwater) required to service the land is physically and economically feasible at no cost to State and Local Government
Comment:	Existing public roads will be used to access existing and proposed dwelling locations. Both Coopers Shoot Road and Picadilly Hill Road are in poor condition. Power and communications are connected to the area as three houses exist. Water will have to be collected on site as per the existing situation. Approved wastewater disposal systems exist for four dwellings and a study attached to the planning proposal application found that the proposed fifth dwelling lot has multiple locations that could be used. Road upgrades is the issue that may require local government expenditure as a result of past incremental approvals for rural residential development and concessional lots not being required to reconstruct low quality roads built many decades ago.
Environment and heritage	The proposed land uses do not have an adverse impact on areas of high environmental value, and Aboriginal or historic heritage significance
Comment:	A small area of native vegetation that is currently a Deferred Matter is not included in the proposed R5 land and will not be affected by it. An Aboriginal Cultural Heritage Assessment by the TB LALC determined the site has minimal heritage values and no registered sites, places or relics. No heritage structures or places are listed in the Byron LEP 2014 for this site. It is unlikely that the proposed R5 land and subsequent 5 dwellings will have any adverse effects on the environment or heritage of the land.
Avoiding risk	<ul style="list-style-type: none"> • Risks associated with physically constrained land are identified and avoided, including: • flood prone; • bushfire-prone; • highly erodible; • severe slope; and • acid sulfate soils.
Comment:	The site is not flood affected and has no acid sulfates soils. Surrounding land is vegetated and bushfire buffers affect the north east corner. A bushfire assessment found that compliance with Planning for Bushfire Protection is feasible. Some sloping and erodible areas exist around a steep gully on the land but this steep land will mostly not be zoned R5 and will remain managed as part of the larger residue lot to remain in RU2.
	The risks to the long term use of the site associated with the physical characteristics of the site are minimal.



Planning,
Industry &
Environment

Gateway Determination

Planning proposal (Department Ref: PP_2019_BYRON_003_00): to rezone land for rural residential purposes at Lot 3 DP 592005 and Lot 1 DP 1124504, Coopers Shoot Road and Picadilly Hill Road, Coopers Shoot, and amend the associated minimum lot size.

I, the Director Regions, Northern at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Byron Local Environmental Plan (LEP) 2014 to rezone land for rural residential purposes at Lot 3 DP 592005 and Lot 1 DP 1124504, Coopers Shoot Road and Picadilly Hill Road, Coopers Shoot, and amend the associated minimum lot size should proceed subject to the following conditions:

1. Prior to agency and community consultation the planning proposal is to be amended to address:
 - (a) State Environmental Planning Policy (Primary Production and Rural Development) 2019 rather than the former State Environmental Planning Policy (Rural Lands) 2008; and
 - (b) the amended section 9.1 direction 1.5 Rural Lands.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

PP_2019_BYRON_003_00 (IRF19/3133)

4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- Department of Planning, Industry and Environment (Environment, Energy and Science)
- NSW Rural Fire Service
- Rous County Council
- Jali Local Aboriginal Land Council
- Arakwal Corporation

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 6 day of August 2019.



Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

PP_2019_BYRON_003_00 (IRF19/3133)

Linda Armstrong
Raftons Road
Bangalow NSW 2479

12th December, 2019

Steve Daniels
Planner
Environment & Economic Planning
Byron Shire Council

Dear Sir,

We acknowledge receipt of your letter dated 18th November, 2019, regarding the rezoning of Irwin's Lot 3 DP 592005 and Lot 1 DP 1124504, 4 Picadilly Hill Road, Coopers Shoot.

The 2014 Byron LEP altered the rules for R5 to ensure a more suitable minimum of 2.5 Ha lots. With this rezoning to R5 all Community Titles should be negated and any future application for Torrens Title should be treated under the current DA rules and standards. These smaller lot sizes are also setting a precedent for future applications.

As part of a 3-lot subdivision at 384 Coopers Shoot Road, we are currently widening the road to a ridiculously high standard, including hotmix, which is not seen on any other rural road in this area. We trust that Picadilly Hill Road is also upgraded upon application for a subdivision if this re-zoning is allowed by Council.

We are already being over-run with residents building three or more "cabins" on their properties with little contribution to the road and probably little if no increase in rates.

In conclusion, we are not opposed to the rezoning to R5, however current rules need to be considered re the road upgrades and size of blocks. They could re-zone their whole property and create four minimum 2.5 Ha lots.

Yours sincerely,



Planning,
Industry &
Environment

Our Ref: DOC19/1012383
Your Ref: PP 26.2018.5.1

General Manager
Byron Shire Council
PO Box 219
Mullumbimby NSW 2482

Attention: Mr Steve Daniels

Dear Mr Arnold

RE: Planning Proposal for Amendment of Byron Local Environmental Plan 2014 to rezone Part Lot 3 DP 592005 and Part Lot 1 DP 1124504, 4 Picadilly Hill Road, Coopers Shoot

Thank you for your e-mail dated 19 November 2019 about the Planning Proposal to rezone land for rural residential purposes at lot 3 DP 592005 and Lot 1 DP 1124504, Coopers Shoot Road and Picadilly Hill Road, Coopers Shoot seeking comments from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the NSW Department of Planning, Industry and Environment. I appreciate the opportunity to provide input.

The BCD was formerly part of the Office of Environment and Heritage, but now forms part of a Group that has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), Aboriginal cultural heritage, National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

We have reviewed the documents supplied and advise that several issues are apparent with the assessments for Aboriginal Cultural Heritage and Biodiversity. These issues are discussed in detail in **Attachment 1** to this letter.

The planning proposal seeks to amend the existing zone from RU2 to R5 over approximately 5.53 ha and allow an additional house site on the remaining 11.38 ha of RU2 land. Under the planning proposal the minimum lot size would be reduced from 40 ha to 10, 1.5 and 0.8 ha across the planning area.

The Cultural Heritage Inspection Report by Tweed Byron Aboriginal Land Council (TBLALC) dated 25 October 2018 concluded that no intangible Aboriginal cultural heritage values or Aboriginal objects occur within the planning area. The BCD supports the recommendations detailed on page 10 of the TBLALC Inspection Report, but the information needs to be augmented with consultation with native title holders and a current search of the Aboriginal Heritage Information Management System.

The planning area contains significant biodiversity values including habitat for threatened flora and fauna and an example of the Endangered Ecological Community (EEC) Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions. The planning proposal should protect these areas of High Environmental Value into the future in accordance with the North Coast Regional Plan.

In summary, the BCD recommends that prior to finalising the planning proposal:

1. The planning proposal should be informed by:
 - a. Consultation with the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) regarding any areas of important Aboriginal cultural heritage in the planning area; and
 - b. A current search of the Aboriginal Heritage Information Management System.
2. The areas of rainforest vegetation in the planning area should be zoned E2 Environmental Conservation as part of the planning proposal. This could be delayed given the Byron Shire Council's advice that it is proceeding with a separate planning proposal for its broader E-zones, but only if the council enters into a planning agreement with the landowner to commit to zoning these areas E2 as part of that broader zoning program.
3. A Planning Agreement should be prepared as part of the planning proposal committing to the preparation and implementation of a Vegetation Management Plan over existing native vegetation in the planning area at the time of subdivision of the planning area, to secure the ongoing management of biodiversity values in the planning area.

If you have any questions about this advice, please do not hesitate to contact Mr Gabriel Anderson, Senior Conservation Planning Officer, at gabriel.anderson@environment.nsw.gov.au or 6659 8200.

Yours sincerely

10 January 2020

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

Enclosure: Attachment 1. Detailed BCD comments - Planning Proposal 4 Picadilly Hill Road, Coopers Shoot.

Attachment 1: Detailed BCD Comments – Planning Proposal 4 Picadilly Hill Road, Coopers ShootBackground

The planning proposal seeks to amend the existing zone for part of Lot 3 DP 592005 and Lot 1 DP1124504 on the corner of Coopers Shoot Road and Piccadilly Hill Road at Coopers Shoot under Byron Local Environmental Plan (LEP) 2014 to permit a five-lot large lot residential subdivision on the site and leave the existing deferred matter over the environmentally sensitive land. The planning proposal seeks to rezone around 5.53 hectares of the existing RU2 Rural Landscape zone to R5 Large Lot residential. The balance of the subject land (11.38 ha) will remain zoned RU2. Under the planning proposal the minimum lot size would be reduced from 40 ha to 10, 1.5 and 0.8 ha.

Aboriginal Cultural Heritage

The documentation provided demonstrated consideration of the Ministerial Direction (2.3 Heritage Conservation) in relation to Aboriginal cultural heritage. The Cultural Heritage Sites Inspection Report, 4 Piccadilly Road, Cooper Shoot NSW 2479 (the TBLALC Inspection Report) 25 October 2018 concluded that no intangible Aboriginal cultural heritage values or Aboriginal objects occur within the planning area. The BCD supports the recommendations detailed on page 10 of the TBLALC Inspection Report and provides the following information for clarity.

Firstly, unlike in the Tweed local government area, there is no broadscale cultural heritage mapping available in the Byron local government area to inform the TBLALC Inspection Report. Secondly, an AHIMS search undertaken as part of a due diligence defence is only current for 12 months. The search undertaken by TBLALC and provided to support the planning proposal is older than 12 months. Finally, in April 2019 the Bundjalung of Byron Bay had their Native Title determined. The proposal should consider the potential that the Native Title holders may have knowledge of Aboriginal cultural values within the planning area.

BCD Recommendation

1. The planning proposal should be informed by:
 - a. Consultation with the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) regarding any areas of important Aboriginal cultural heritage in the planning area; and
 - b. A current search of the Aboriginal Heritage Information Management System.

Biodiversity

There are significant biodiversity values in and around the planning area, which lies within a highly diverse locality with high soil fertility and high rainfall. The planning area contains native flora and fauna and habitat for threatened species including remnant and planted rainforest vegetation.

While there are no threatened species records within the planning area in the NSW BioNet database there is suitable habitat for threatened rainforest flora and fauna such as fruit eating pigeons (Rose crowned and Wompoo fruit doves), Grey headed flying fox, White eared monarch and Rainbow bee eater as well as Koala in planted eucalypts. There is also potential habitat for Hairy Joint Grass (*Arthraxon hispidus*) in the two main gullies within the area. During field inspections on 8 January 2020 no Hairy Joint Grass was observed however three mature Coolomon (*Syzygium moorei*) were identified within the rainforest remnant. Coolomon is a threatened plant species listed as vulnerable on the schedules of the *NSW Biodiversity Conservation Act 2016* (BC Act) and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The rainforest remnant is a small (approximately 0.29 ha) area of existing mature trees with a sparse understorey and a ground layer dominated by exotic species. This area is the subject of a deferred matter under the Byron LEP 2014. The remnant is an area of significant vegetation comprising Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions, endangered under the NSW BC Act and Critically Endangered under Commonwealth legislation. Additionally, there is approximately 1.1 ha of rainforest plantings established in 2006 as a condition of the prior community title application which provides habitat for threatened species and may be classed as Lowland Rainforest in the future.

Attachment 1: Detailed BCD Comments – Planning Proposal 4 Picadilly Hill Road, Coopers Shoot

All the areas of rainforest in the planning area meet the criteria of High Environmental Value land as defined by the North Coast Regional Plan. The Regional Plan seeks to avoid land use intensification in areas of HEV and to protect such areas and this should be evident in the planning proposal.

BCD Recommendations

2. The areas of rainforest vegetation in the planning area should be zoned E2 Environmental Conservation as part of the planning proposal. This could be delayed given the council's advice that it is proceeding with a separate planning proposal for its broader E-zones, but only if the council enters into a planning agreement with the landowner to commit to zoning these areas E2 as part of that broader zoning program.
3. A Planning Agreement should be prepared as part of the planning proposal committing to the preparation and implementation of a Vegetation Management Plan over existing native vegetation in the planning area at the time of subdivision of the planning area, to secure the ongoing management of biodiversity values in the planning area.

Schedule 3 Form of special disclosure of pecuniary interest

submitted under Clause 4.25 of the Code of Conduct for Councillors

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.24(c) of the Byron Shire Council Code of Conduct for Councillors (the Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

[name of council or council committee (as the case requires)]

Report No. _____ to be held on the _____ day of _____ 201

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 4

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (<i>the identified land</i>)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has interest in the land (e.g. is owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest⁷	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (<i>the subject land</i>) ⁸ [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

⁷ Clause 4.1 of the Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.

⁸ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Code of Conduct has a proprietary interest.



THE **kollektive** 

STREETSCAPE ELEVATION

23 LISMORE STREET BANGALOW
-
FEB.2019

D-E-07
DA SET



THE **kollektive** 

SOUTH PERSPECTIVE VIEW

23 LISMORE STREET BANGALOW
05 MARCH 2019

D-E-05
DA SET



THE **kollektive** 

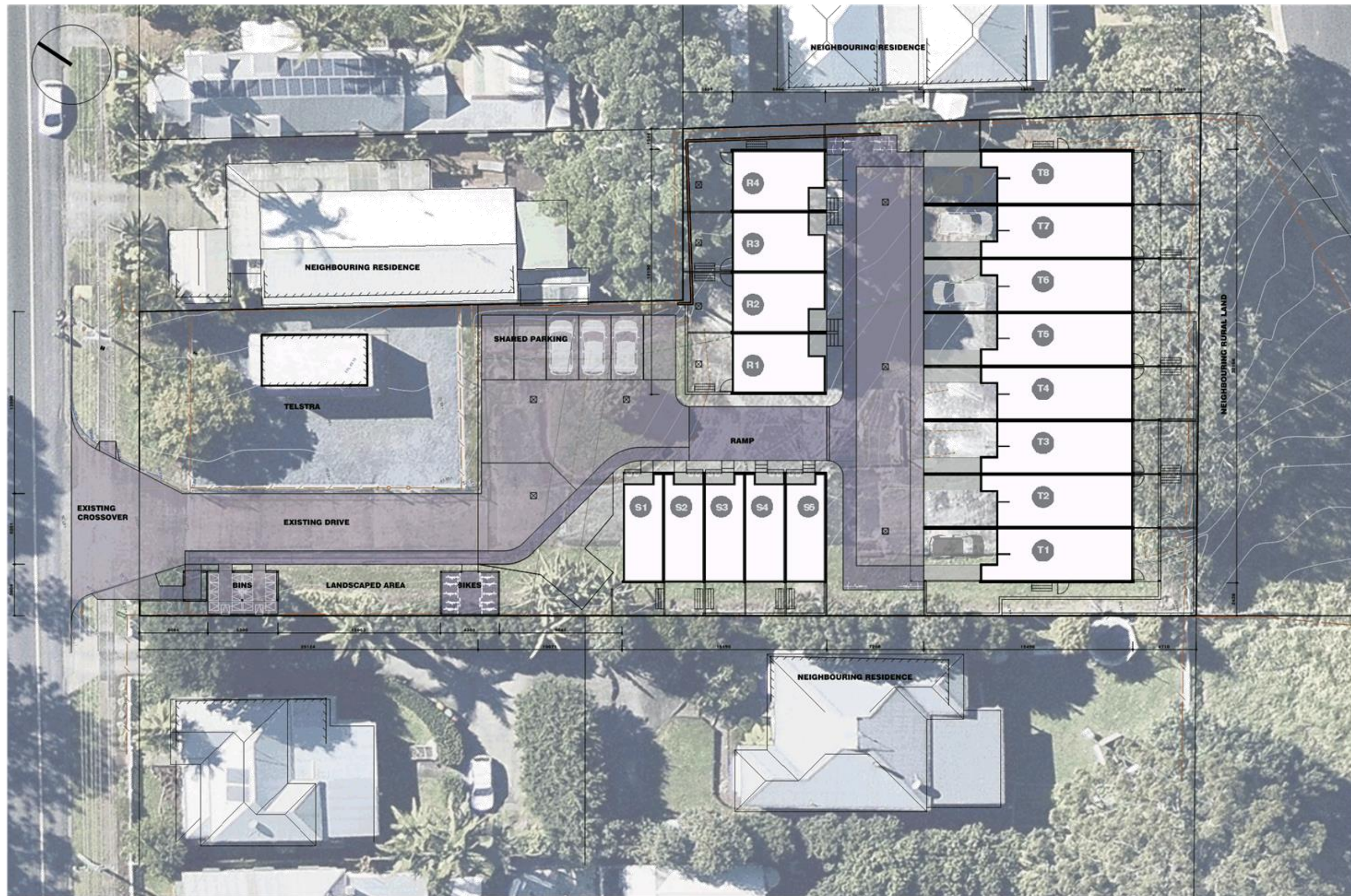
DRIVEWAY PERSPECTIVE VIEW

23 LISMORE STREET BANGALOW

D-E-06

FEB. 2019

DA SET



THE **kollektive**

SITE PLAN - PHOTO

SITE PLAN

23 LISMORE STREET BANGALOW
1:250 AT A3
12 MARCH 2019

D-S-02
DA SET

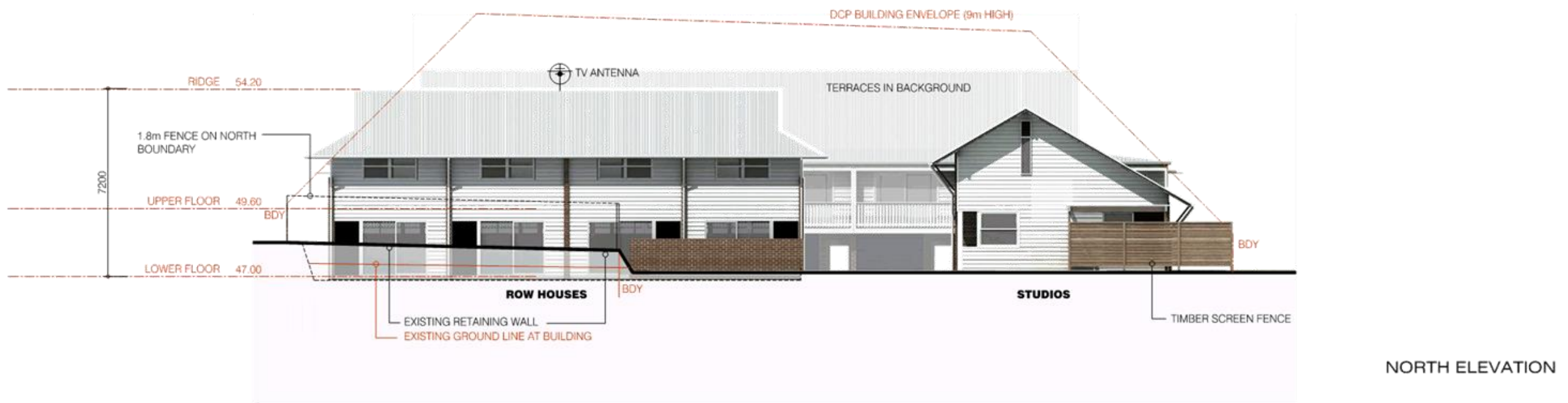
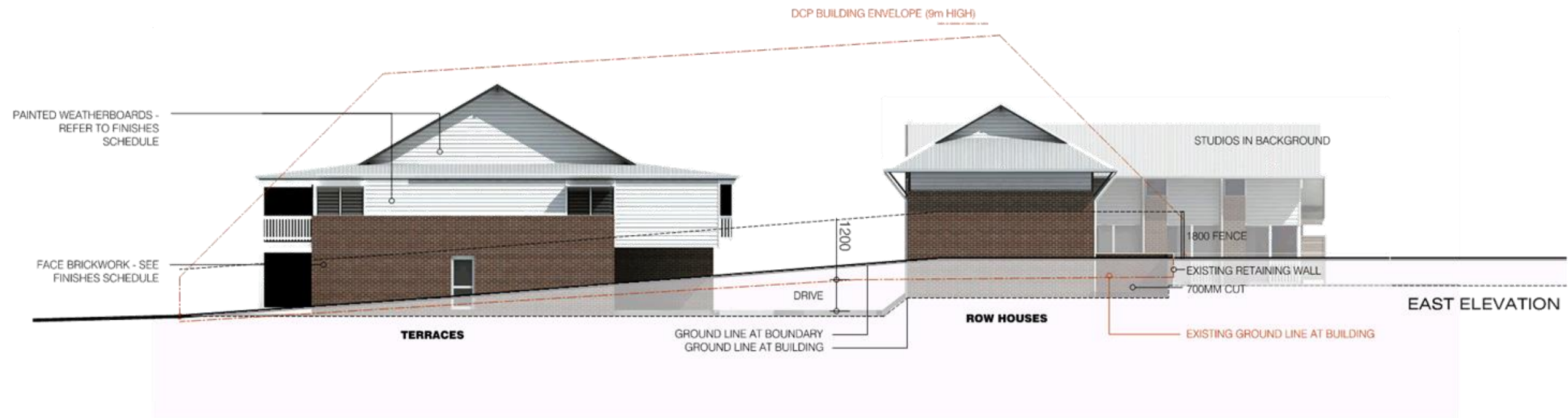


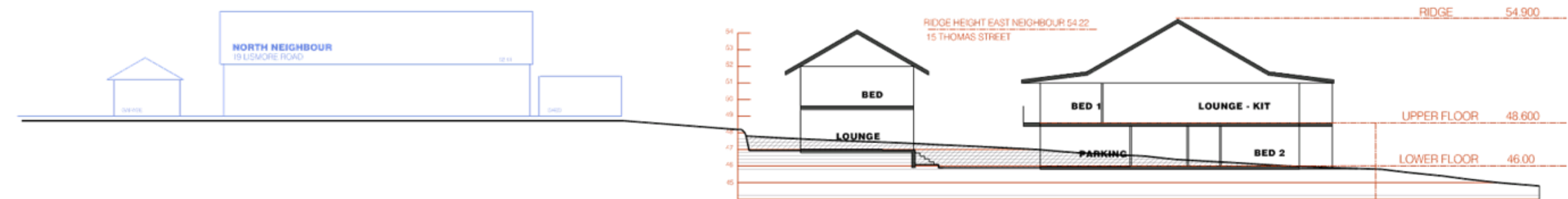
BLOCK PLAN

23 LISMORE STREET BANGALOW
1:500 AT A3
05 MARCH 2019

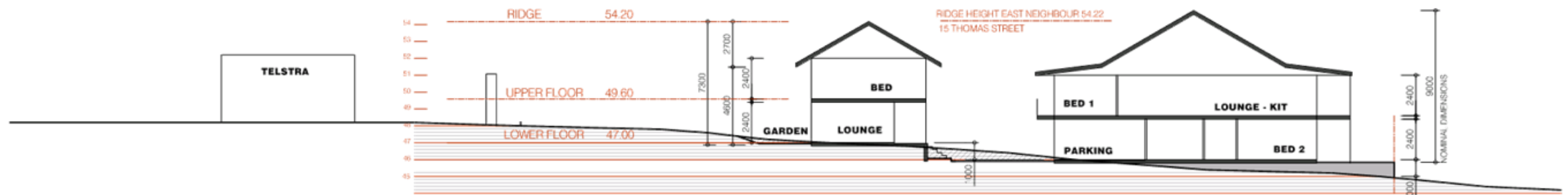
D-S-00
DA SET



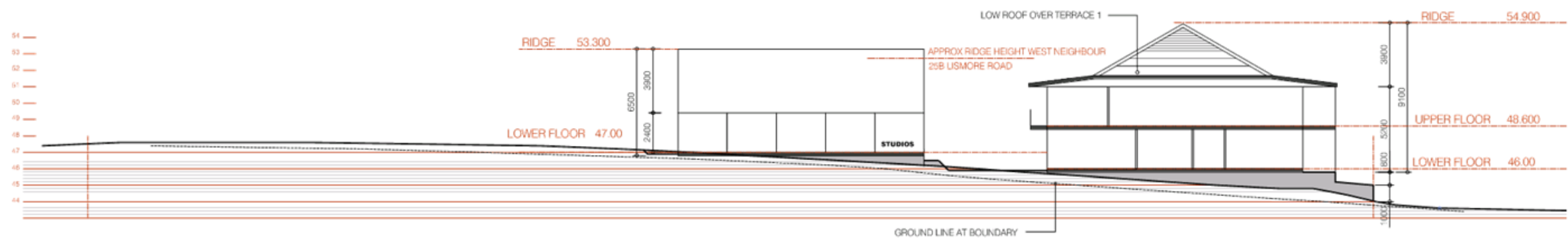




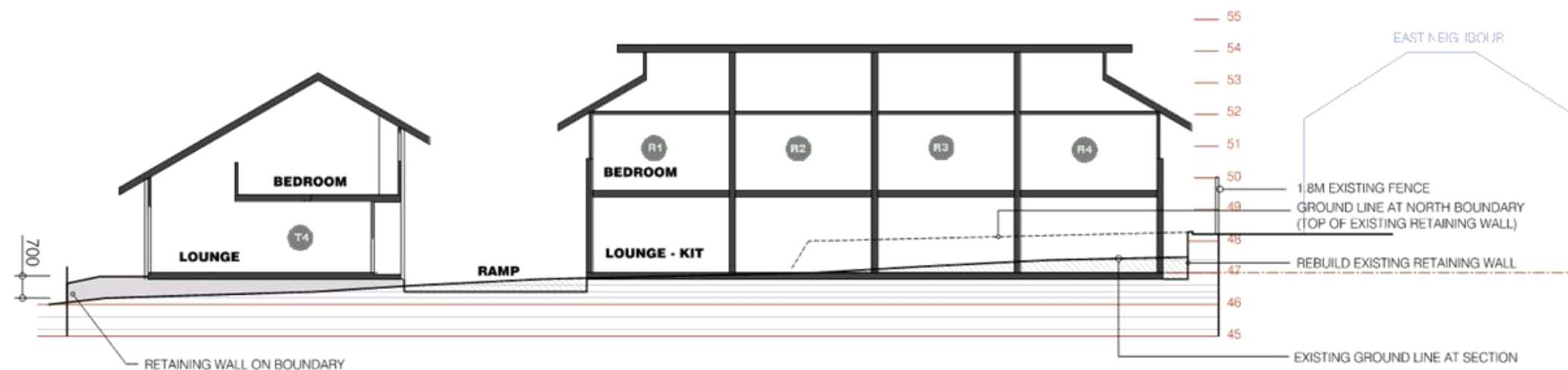
SITE SECTION A



SITE SECTION B



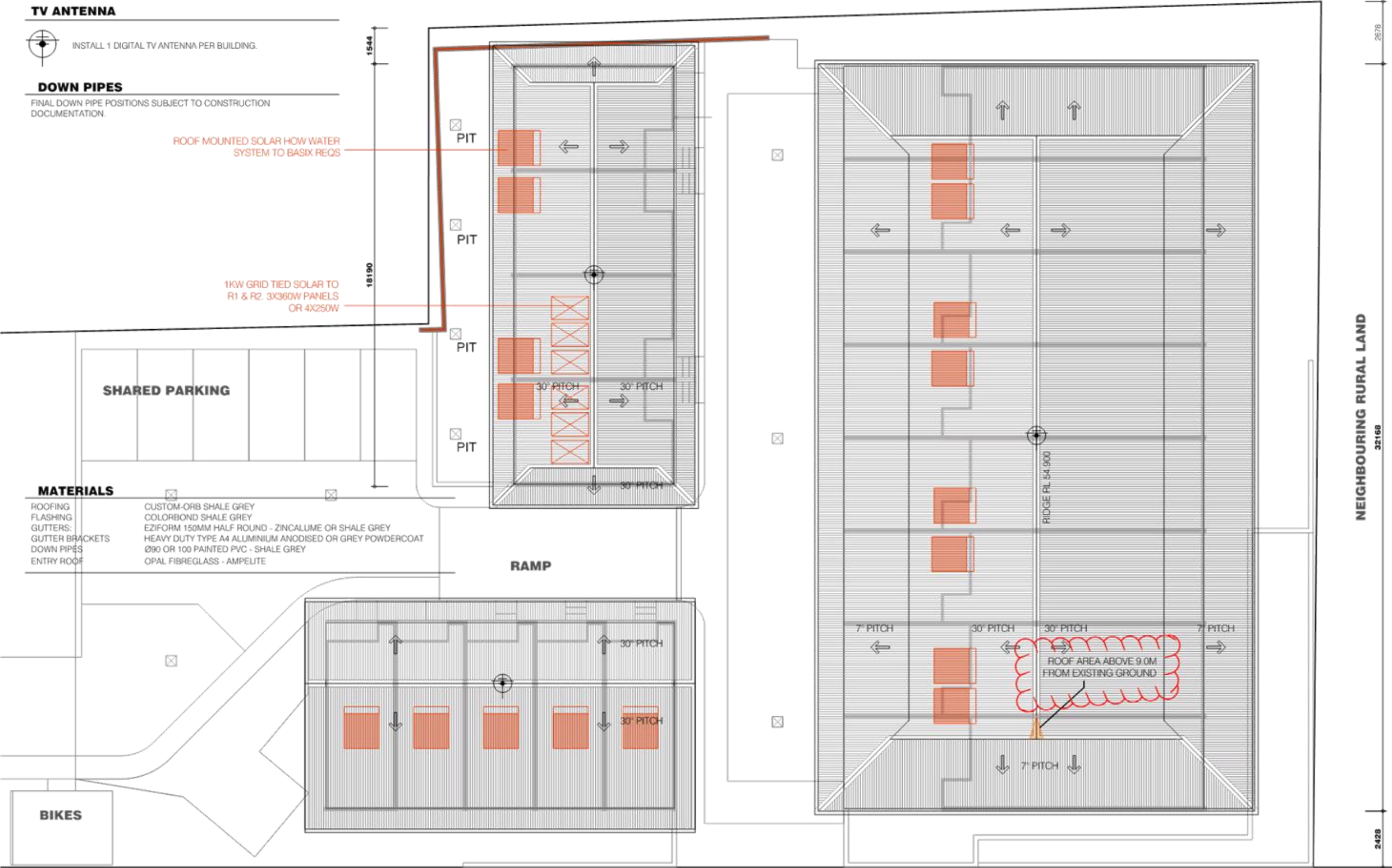
SITE SECTION C

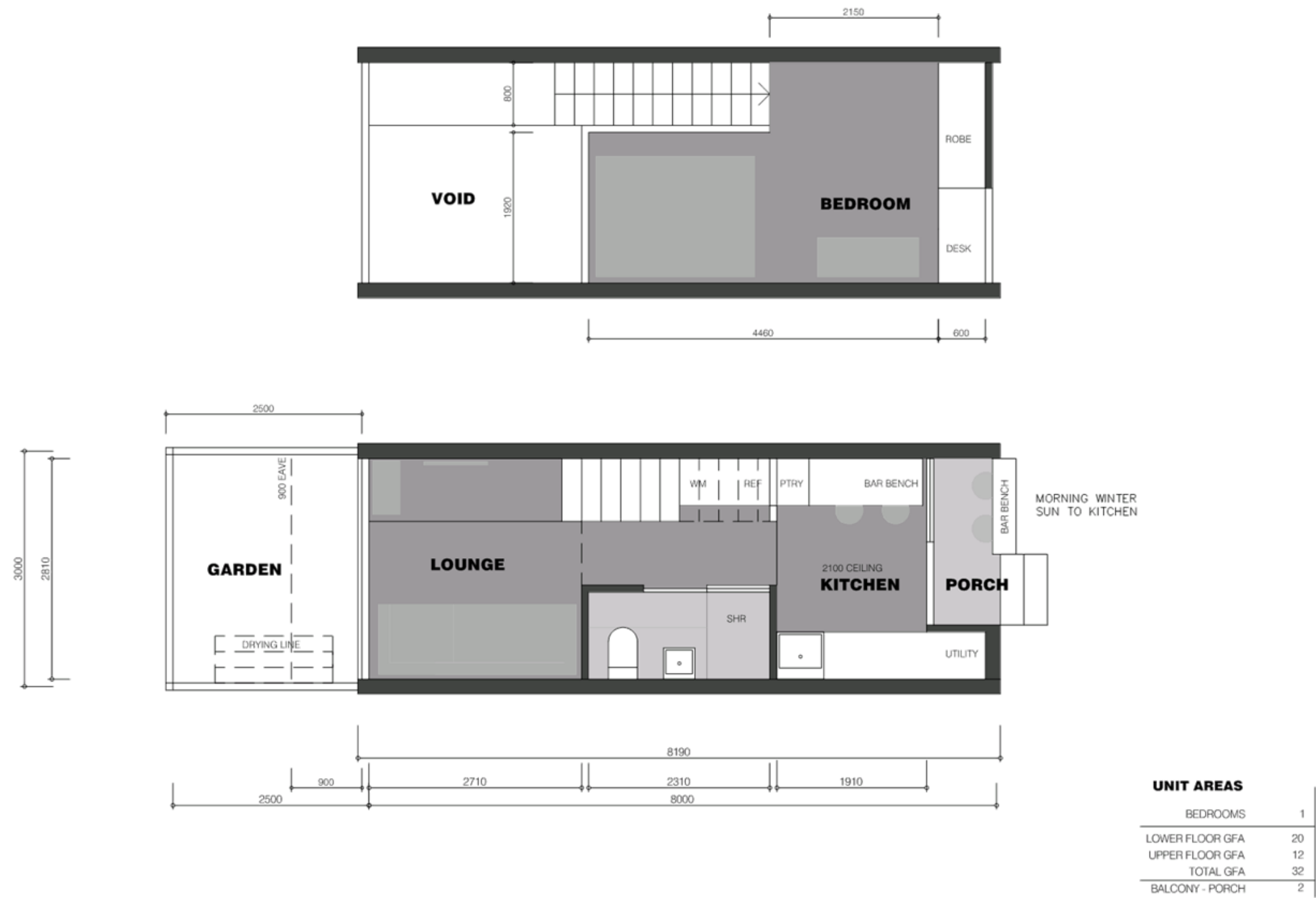


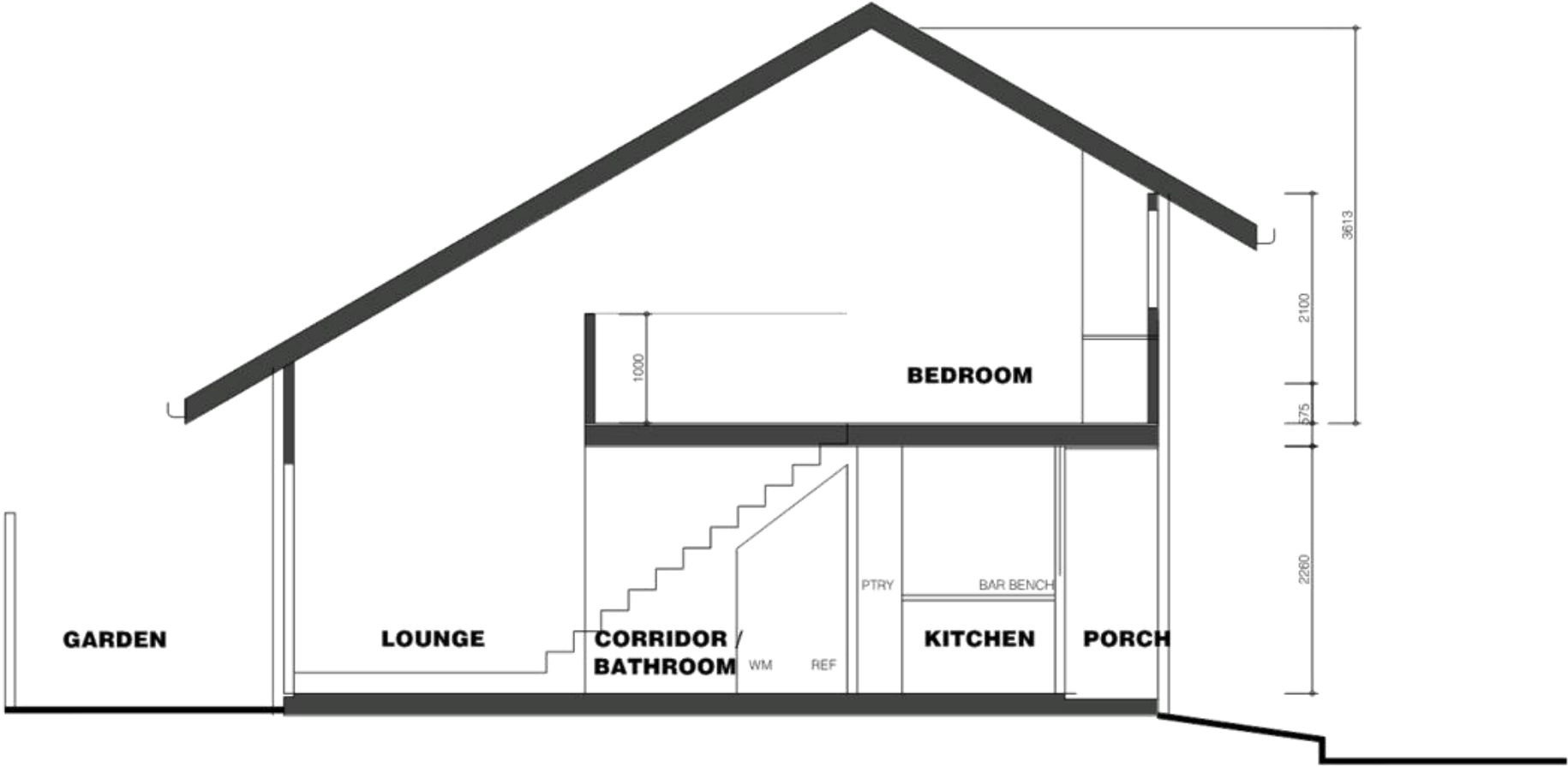
SITE SECTION D

	PAINTED FIBRE CEMENT BOARDS AND ASSOCIATED TRIMS OFF WHITE PAINT DULUX ANTIQUE WHITE USA OR CHINA WHITE CLADDING		POWDERCOATED ALUMINIUM WHITE COLORBOND DULUX VIVID WHITE WINDOW FRAMES		SELECTED TIMBER AUSTRALIAN HARDWOOD SELECTED OIL FINISH - ALLOW TO SILVER SELECTED WALLS AND FENCES
	RED BRICK SELECTED FIRED CLAY BRICKS EXTERNAL WALLS		GREY PAINT DARK GREY PAINT - COLORBOND MONUMENT FASCIAS AND OUTRIGGERS		CORRUGATED STEEL ROOFING COLORBOND SHALE GREY ROOFING & FLASHING

EXTERNAL FINISHES





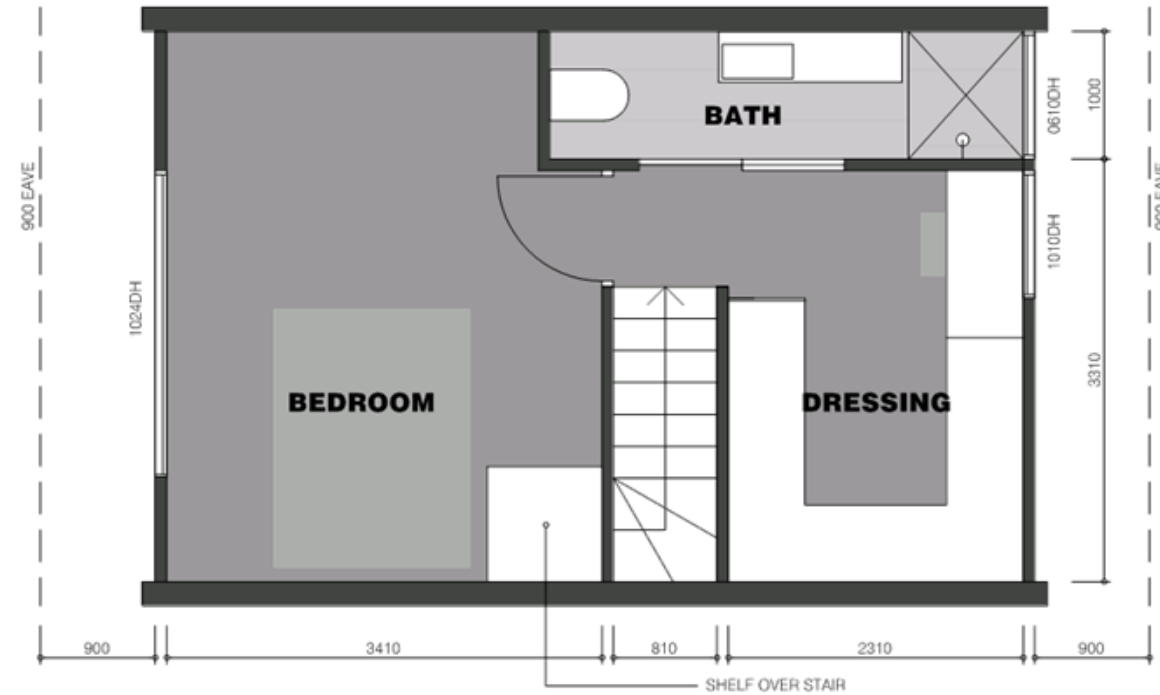


23 Lismore Street Bangalow				
SUMMARY OF BASIX COMMITMENTS FOR EACH UNIT				
This is a summary of the BASIX Commitments as detailed in the BASIX Certificate. Refer to the CURRENT BASIX Certificate for Complete details. For definitions refer to basix.nsw.gov.au				
WATER COMMITMENTS				
Fixtures				
3 Star Shower Heads	Yes (> 4.5 but <= 6U/min)			
3 Star Kitchen / Basin Taps	Yes	3 Star Toilet	Yes	
Alternative Water				
Minimum Tank Size (L)	3000	Collected from Roof Area (m2)	20	
Tank Connected To:				
All Toilets	No	Laundry W/M Cold Tap	No	
One Outdoor Tap	Yes			
THERMAL COMFORT COMMITMENTS - Refer to TPA Specification on plans				
ENERGY COMMITMENTS				
Hot Water	Solar (Electric Boost) 21 to 25 STCs			
Cooling System	Living	None	N/A	
	Bedrooms	1 Phase A/C	3 Star	
Heating System	Living	None	N/A	
	Bedrooms	1 Phase A/C	3 Star	
Ventilation	1 x Bathroom	Fan ducted to exterior	Manual on/off	
	Kitchen	Fan ducted to exterior	Manual on/off	
	Laundry	Fan ducted to exterior	Manual on/off	
Natural Lighting	Window/Skylight in Kitchen			As Drawn
	Window/Skylight in Bathrooms/Toilets			As Drawn
Artificial Lighting (rooms to be primarily lit by fluorescent or LED lights)	Number of bedrooms	All	Dedicated	Yes
	Number of Living/Dining rooms	All	Dedicated	Yes
	Kitchen	Yes	Dedicated	Yes
	All Bathrms/Toilets	Yes	Dedicated	Yes
	Laundry	Yes	Dedicated	Yes
	All Hallways	Yes	Dedicated	Yes
OTHER COMMITMENTS				
Outdoor clothes line	Yes	Ventilated refrigerator space	Yes	
Stove/Oven	Electric cooktop & electric oven			
Alternative Energy	Photovoltaic System: 1 kW to R1 & R2 only			
January 2019			BSA Reference: 14538	
Building Sustainability Assessments		Ph: (02) 4962 3439		
enquiries@buildingsustainability.net.au		www.buildingsustainability.net.au		
Important Note				
The following specification was used to achieve the thermal performance values indicated on the Assessor Certificate and takes precedence over any other specification. If different construction elements are applied then the Assessor Certificate is no longer valid.				
Thermal Performance Specifications (does not apply to garage)				
External Wall Construction		Added Insulation		
Brick Veneer & Lightweight		R2.0		
Internal Wall Construction		Added Insulation		
Plasterboard on studs		None		
Cavity Brick (party walls)		R1.0		
Ceiling Construction		Added Insulation		
Plasterboard		R3.5 to ceilings adjacent to roof space		
Roof Construction		Colour	Added Insulation	
Metal		Any	Foil + R1.0 blanket	
Floor Construction		Covering	Added Insulation	
Concrete		As drawn	None	
Timber		As drawn	R1.0 to floors where open below to T1 & T8	
Windows		Glass and frame type	U Value	SHGC Range Area sq m
ALM-001-01 A		Aluminium Type A Single clear	6.70	0.51 - 0.63 As drawn
ALM-002-01 A		Aluminium Type B Single clear	6.70	0.63 - 0.77 As drawn
Type A windows are awning windows, bifolds, casements, tilt 'n turn' windows, entry doors, french doors				
Type B windows are double hung windows, sliding windows & doors, fixed windows, stacker doors, louvre				
Skylights		Glass and frame type	U Value	SHGC Area sq m
U and SHGC values are according to AFRC. Alternate products may be used if the U value is lower and the SHGC is within the range specified				
External Window Shading		(eaves, verandahs, pergolas, awnings etc)		
All shade elements modelled as drawn				
Ceiling Penetrations		(downlights, exhaust fans, flues etc)		
No adjustment has been made for losses to insulation arising from ceiling penetrations.				

UNIT AREAS

BEDROOMS	1
LOWER FLOOR GFA	25
UPPER FLOOR GFA	27
TOTAL GFA	52
BALCONY - PORCH	2

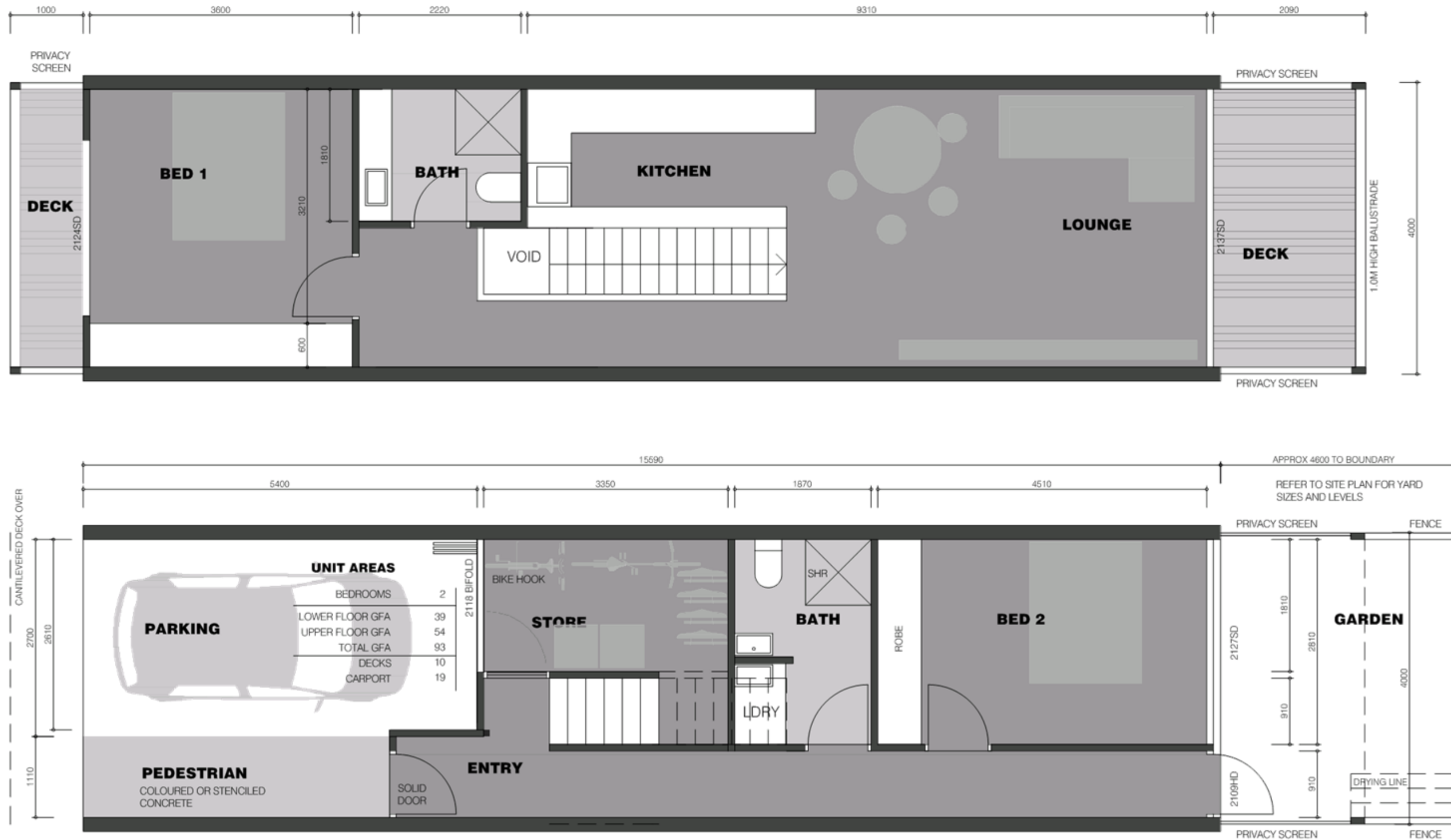
NOTE: NO ADDITIONAL WINDOWS IN END UNITS TO AVOID OVERLOOKING

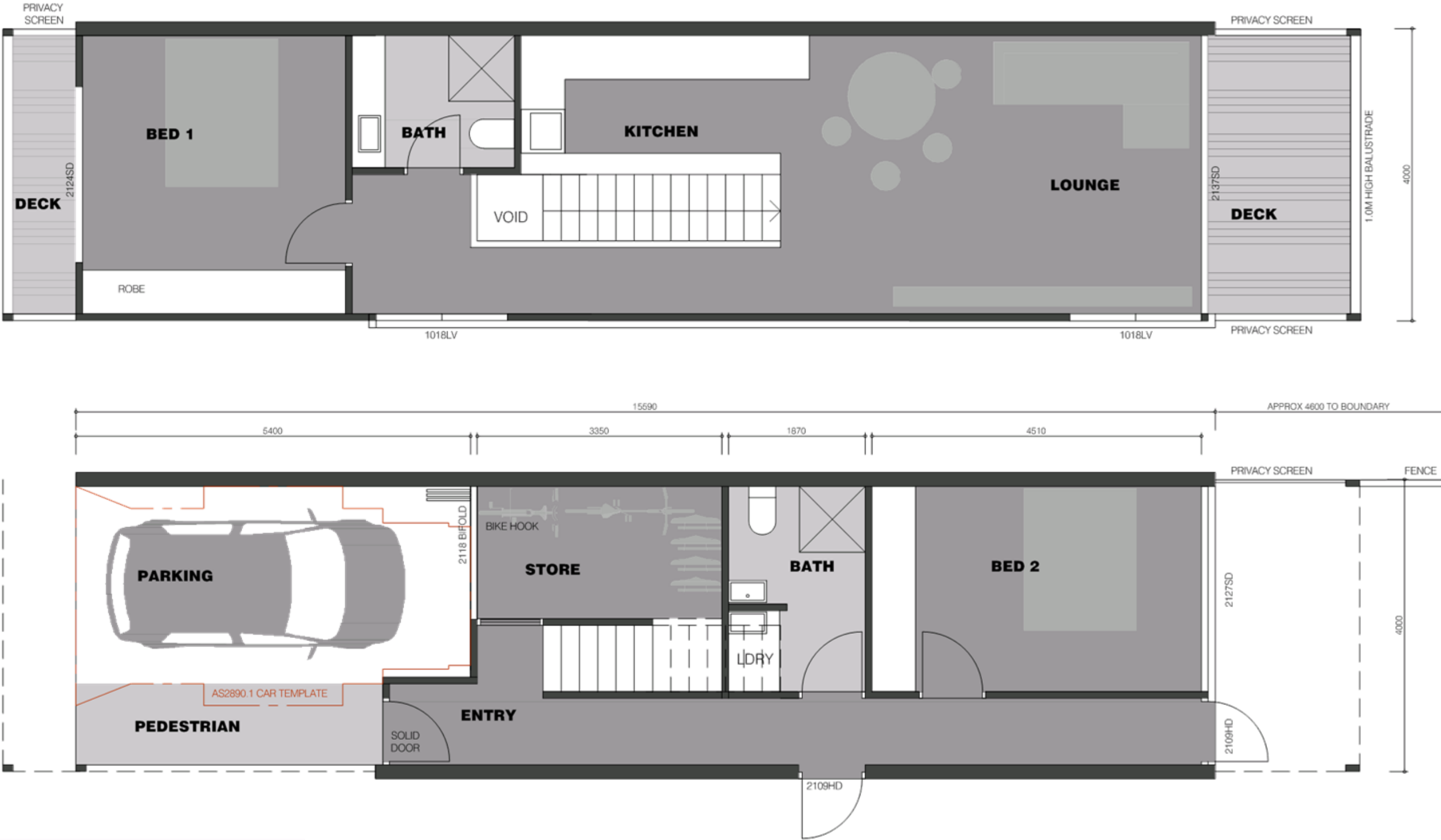


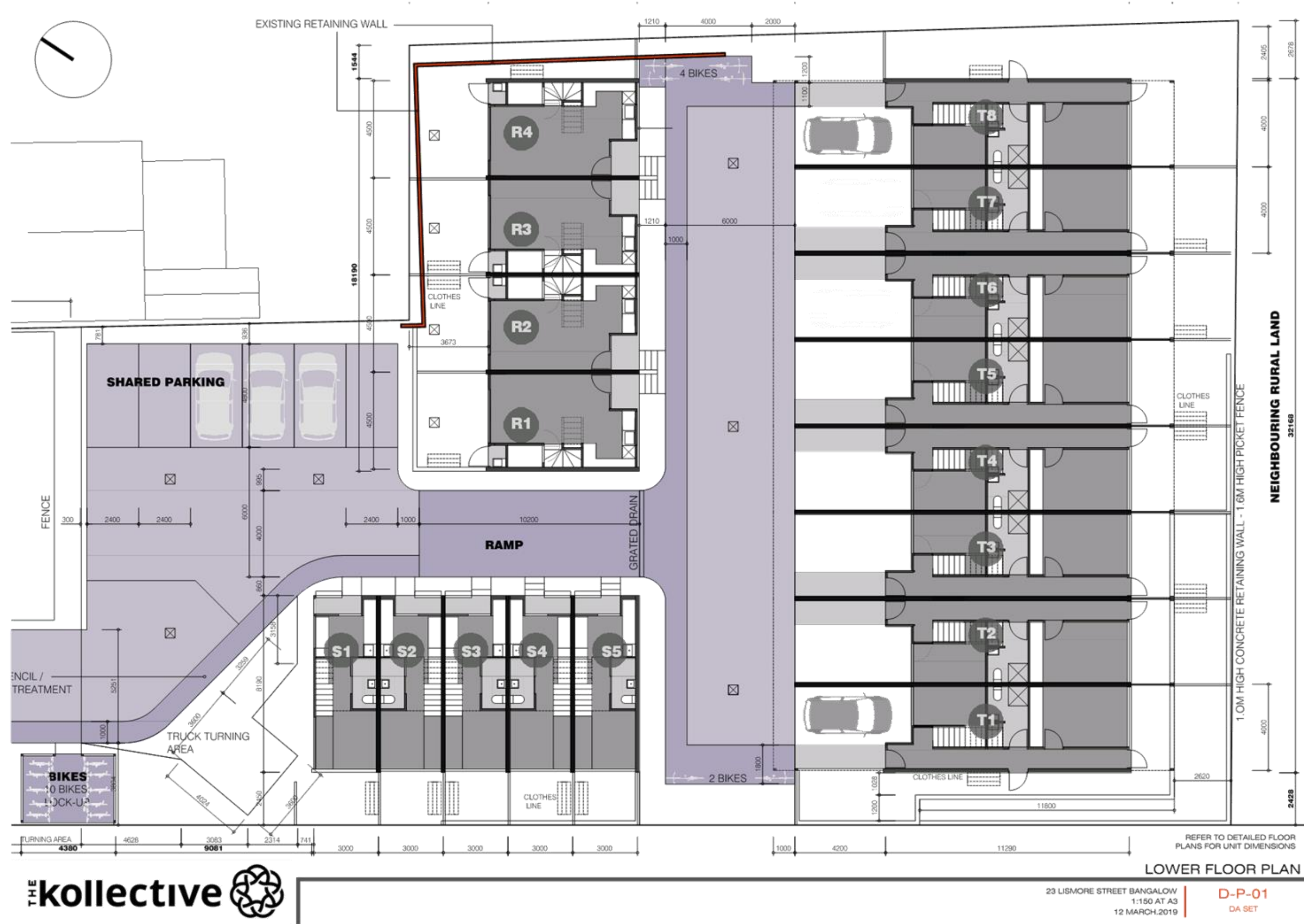
DETAILED PLAN - TYPICAL ROW HOUSE

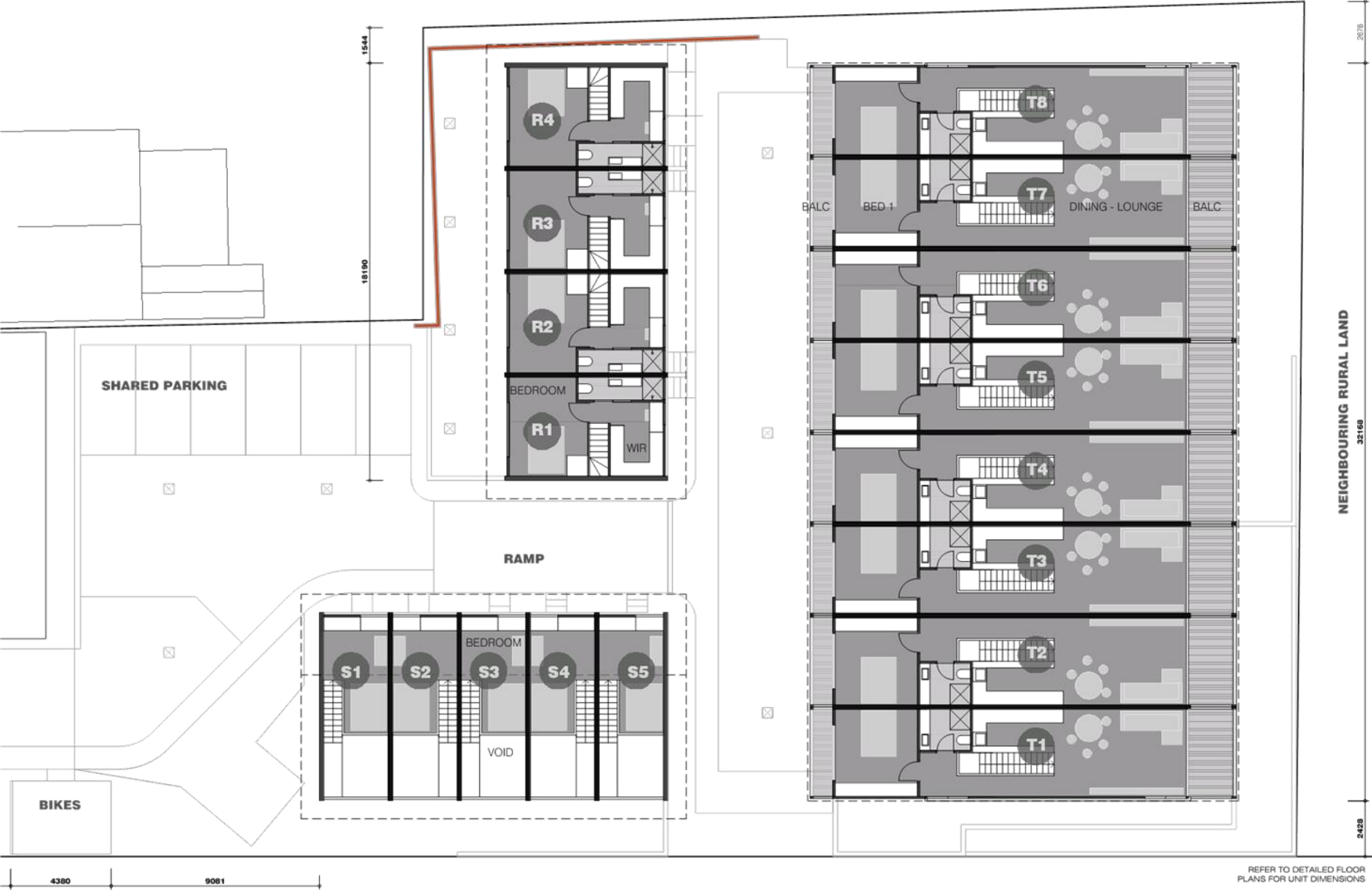
23 LISMORE STREET BANGALOW
1:50 AT A3
05 MARCH 2019

D-D-03
DA SET









UPPER FLOOR PLAN

23 LISMORE STREET BANGALOW
1:150 AT A3
12 MARCH 2019

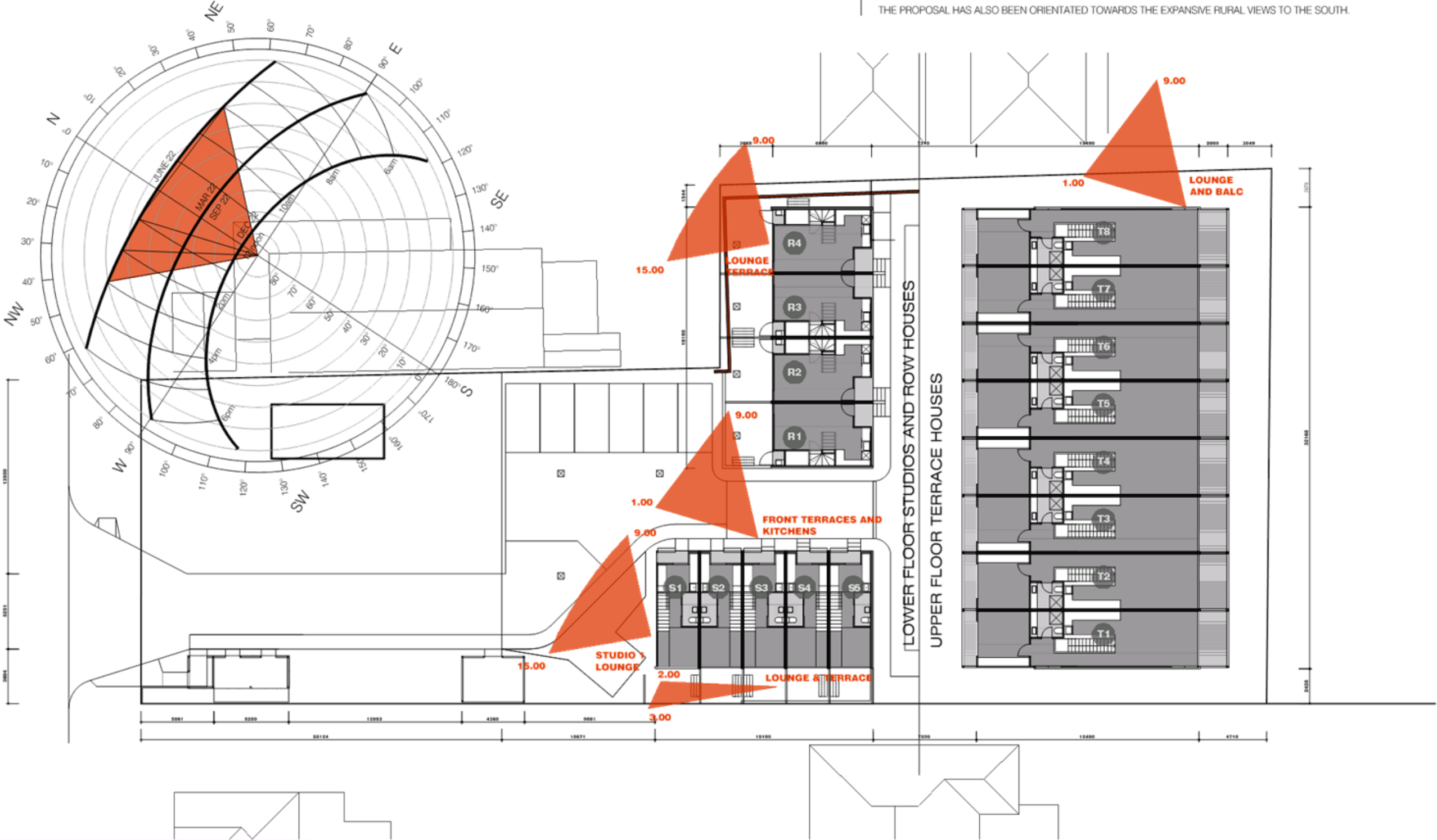
D-P-02
DA SET

WINTER SUN	S1	S2	S3	S4	S5	R1	R2	R3	R4	T1	T2	T3	T4	T5	T6	T7	T8	TOTALS
HRS BTWN 9AM & 3PM	6	5	5	5	5	6	6	6	6	0	0	0	0	0	0	0	4	60%

60% (OR 11 DWELLINGS) OF THE PROPOSED DWELLINGS RECEIVED THE REQUIRED SOLAR ACCESS. REFER TO THE SOLAR ACCESS PLAN.

THE SHAPE OF THE LOT, THE LONG ACCESS HANDLE AND THE LIMITATIONS PLACED BY THE TELSTRA EASEMENT (THE NORTH FACING FRONTAGE) DO NOT ALLOW SITE PLANNING WHICH SATISFIES THIS CLAUSE IN ADDITION TO THE SITE CONSTRAINTS ABOVE. IN ORDER TO MINIMISE OVERLOOKING & OVERSHADOWING TOWARDS THE NEIGHBOURS (MOST NOTABLE THE SOUTH-EASTERN NEIGHBOUR) THE PROPOSED DEVELOPMENT HAS BEEN DESIGNED TOWARDS TO SOUTHERN END OF THE SITE.

THE PROPOSAL HAS ALSO BEEN ORIENTATED TOWARDS THE EXPANSIVE RURAL VIEWS TO THE SOUTH.



SOLAR ACCESS PLAN

23 LISMORE STREET BANGALOW
1:250 AT A3
12 MARCH 2019

D-P-03
DA SET

GRASSES, GROUND COVERS & CREEPERS

CATEGORY	BOTANICAL	COMMON	NOTES
02 CLUMPING GRASSES & FERNS	LOMANDRA LONGIFOLIA + VAR DIANELLA REVOLUTA	MAT RUSH + VARIETIES FLAX LILY	ALL PATH AND GARDEN EDGES
03 GROUND COVERS	GRAVILLEA POORINDA	ROYAL MANTLE	GENERAL GROUND COVER - GARDEN EDGES
04 CREEPERS	HOYA AUSTRALIS STEPHANICA JAPONICA	NATIVE HOYS SNAKE VINE	GROW ON ENTRY GATEHOUSE TRELLIS

MEDIUM TREES & FEATURE TREES

CATEGORY	BOTANICAL	COMMON	NOTES
05 FEATURE TREE	PLUMERIA	FRANGINANI	
06 MEDIUM TREES (6-10M)	CUPANOPSIS ANACARDIOIDES EUCALYPTUS FICIFOLIA	TUCKAROO RED FLOWERING GUM	

SHRUBS - SMALL TREES

CATEGORY	BOTANICAL	COMMON	NOTES
07 PALMS	LINOSPADIX MONOSTACHYS ARCHONTOPHOENIX CUNNINGHAMIANA	WALKING STICK PALM BANGALOW PALM	VERTICAL PLANTING BETWEEN BUILDINGS
08 SHRUBS & SCREEN PLANTING 2-3M	BANKSIA ERICIFOLIA ACACIA FLORIBUNDA ACACIA LONGIFOLIA CALLISTEMON PACIPHILLUS GREVILLEA BANKS + VAR LEPTOSPERMUM LIVERSIDGEI MELALEUCA NODOSA	HEATH BANKSIA WHITE SALLY WATTLE BEACH SALLY WATTLE CRIMSON BOTTLEBROSH BANKS GREVILLEA + OTHERS LEMON SCENTED TEA TREE NODDY MYRTLE	SCREEN PLANTING BETWEEN BUILDINGS AND SIDE BOUNDARIES AND LAYERED PLANTING TO DEEP SOIL ZONES

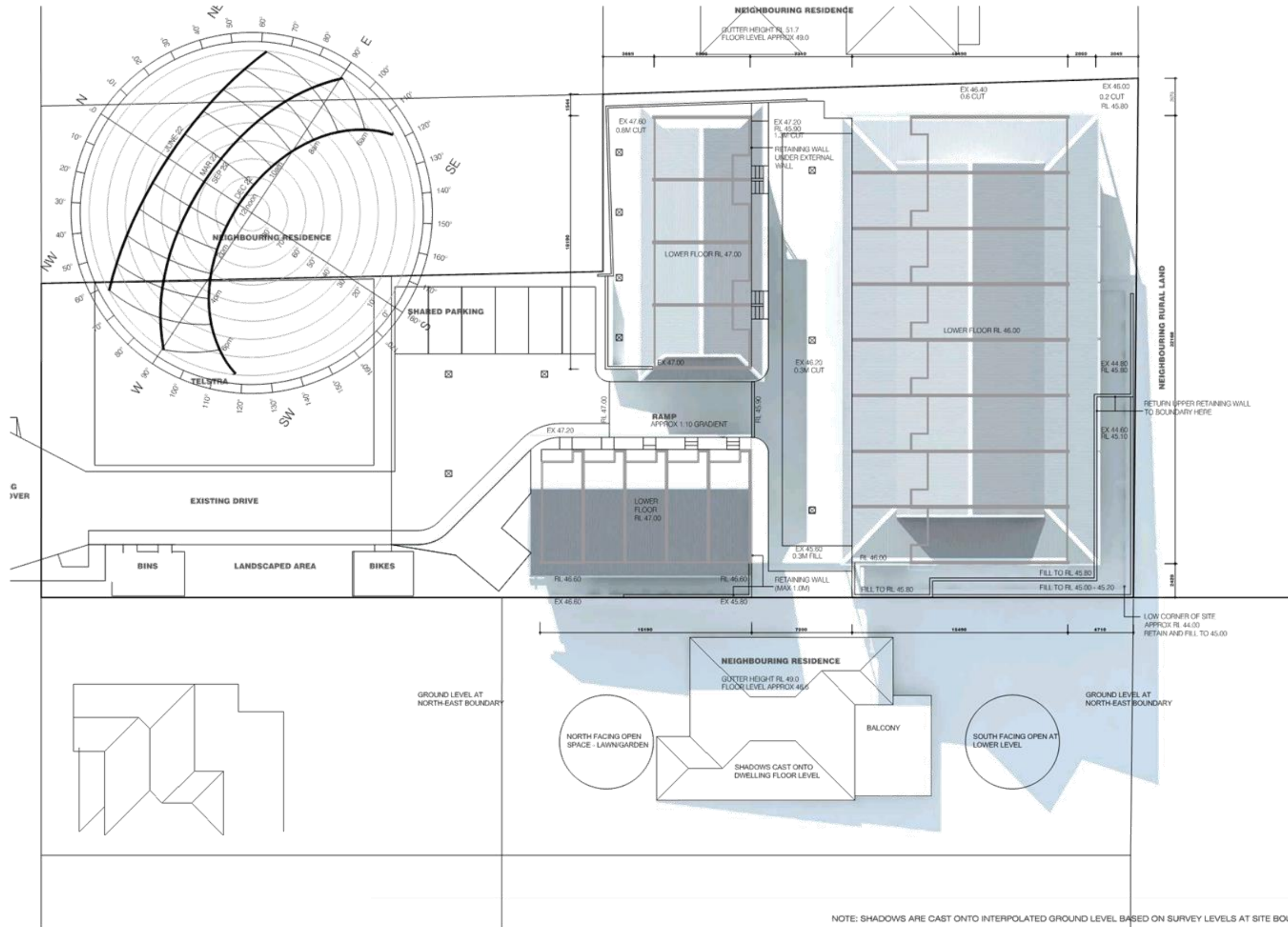
HERITAGE ZONE PLANTS

CATEGORY	BOTANICAL	COMMON	NOTES
09 HEDGE	ACMENA SMITHII	ALLYN MAGIC DWARF LILY PILLY	
10 SMALL TREES	MAGNOLIA GRANDIFLORA	MAGNOLIA LITTLE GEM	

SURFACES

DRIVE	STANDARD GREY CONCRETE
PATHS	COLOURED CONCRETE WITH STAMPED COBBLE OR PAVER PATTERN
GARDENS	MIN 100MM THICK LOCAL NATIVE MULCH





THE **kollektive**

SHADOW DIAGRAM 9AM

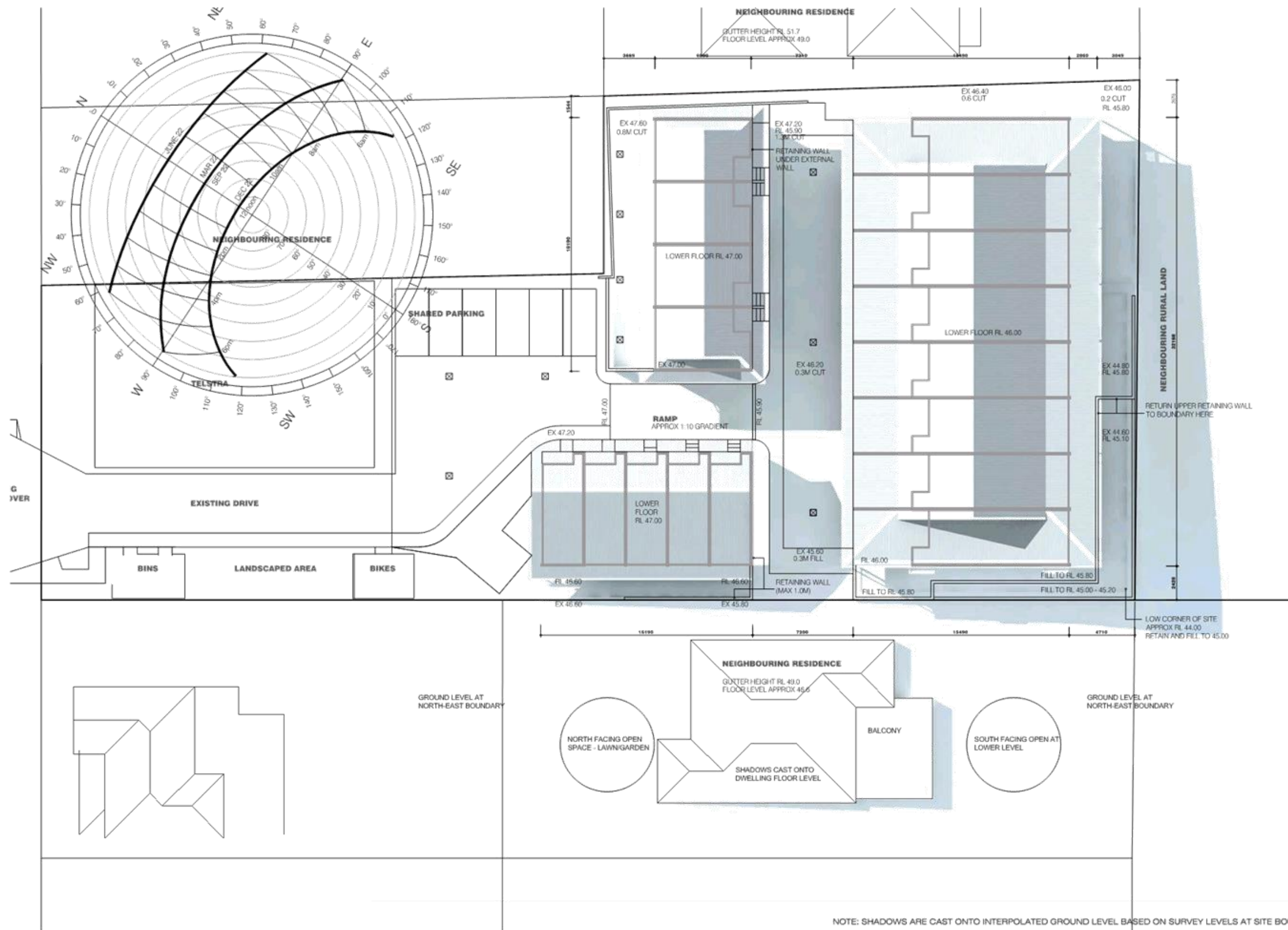
23 LISMORE STREET BANGALOW
1:250 AT A3
01 MARCH .2019

D-S-05A
DA SET



THE kollektive 

D-S-05E
DA SET

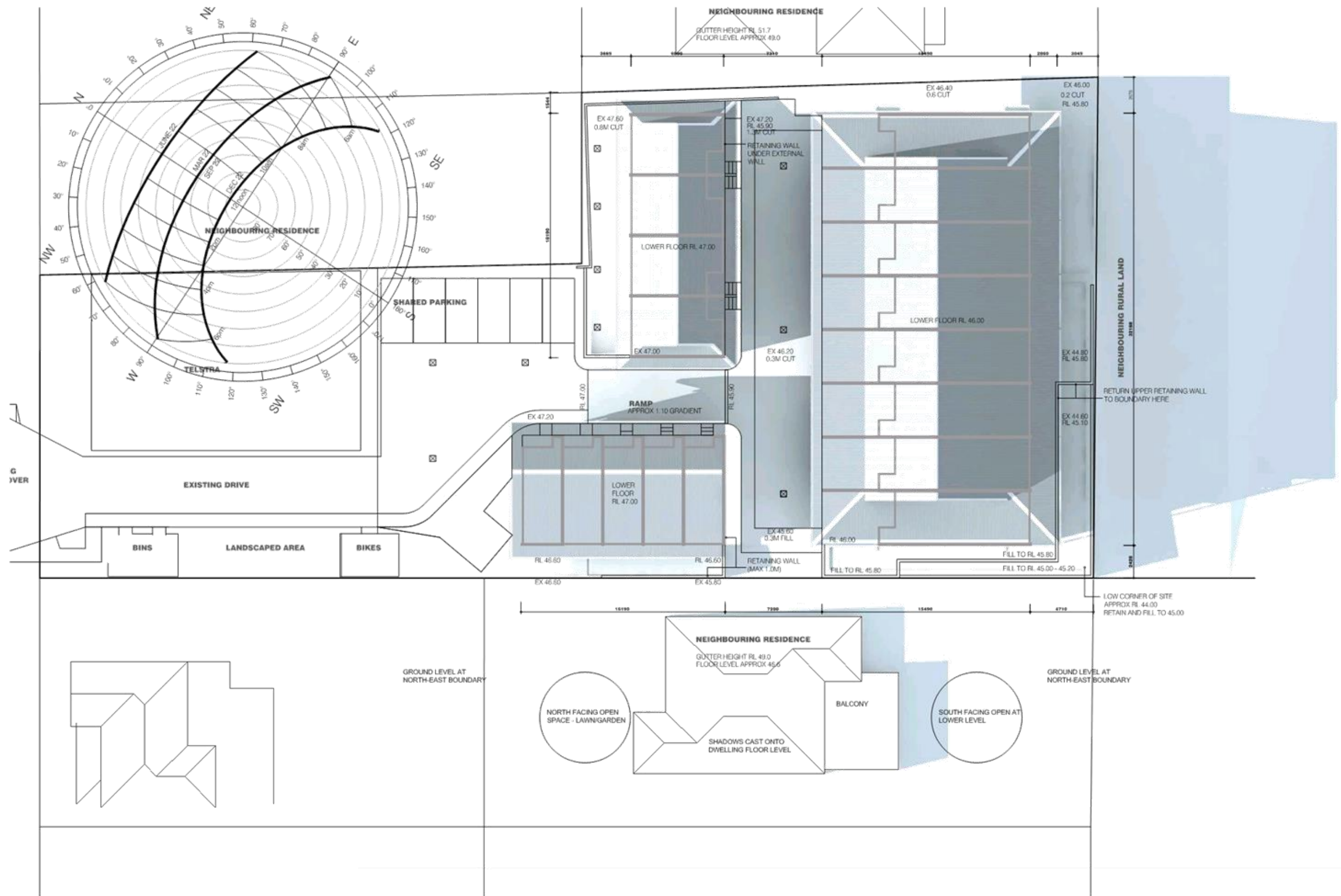


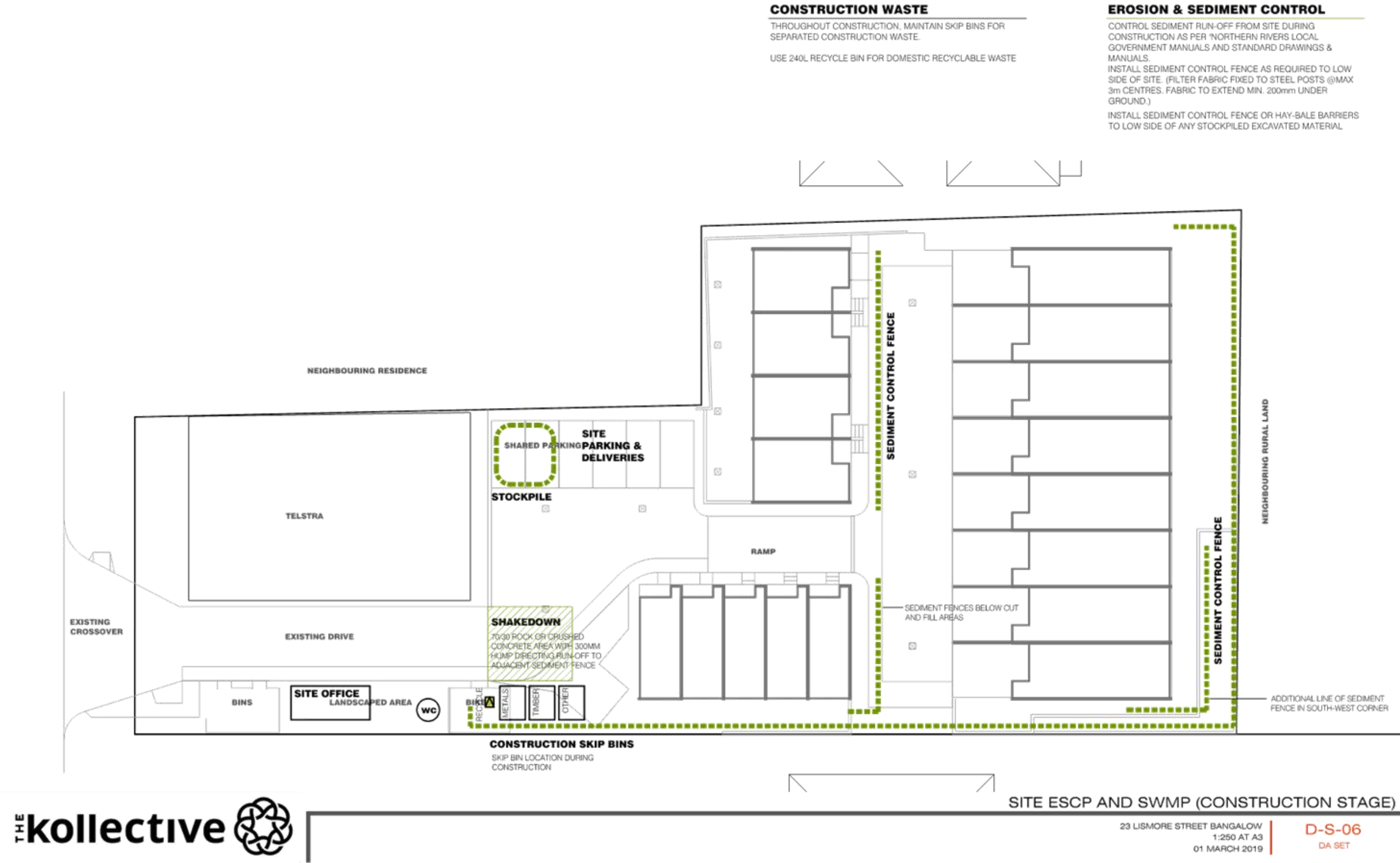
THE **kollektive**

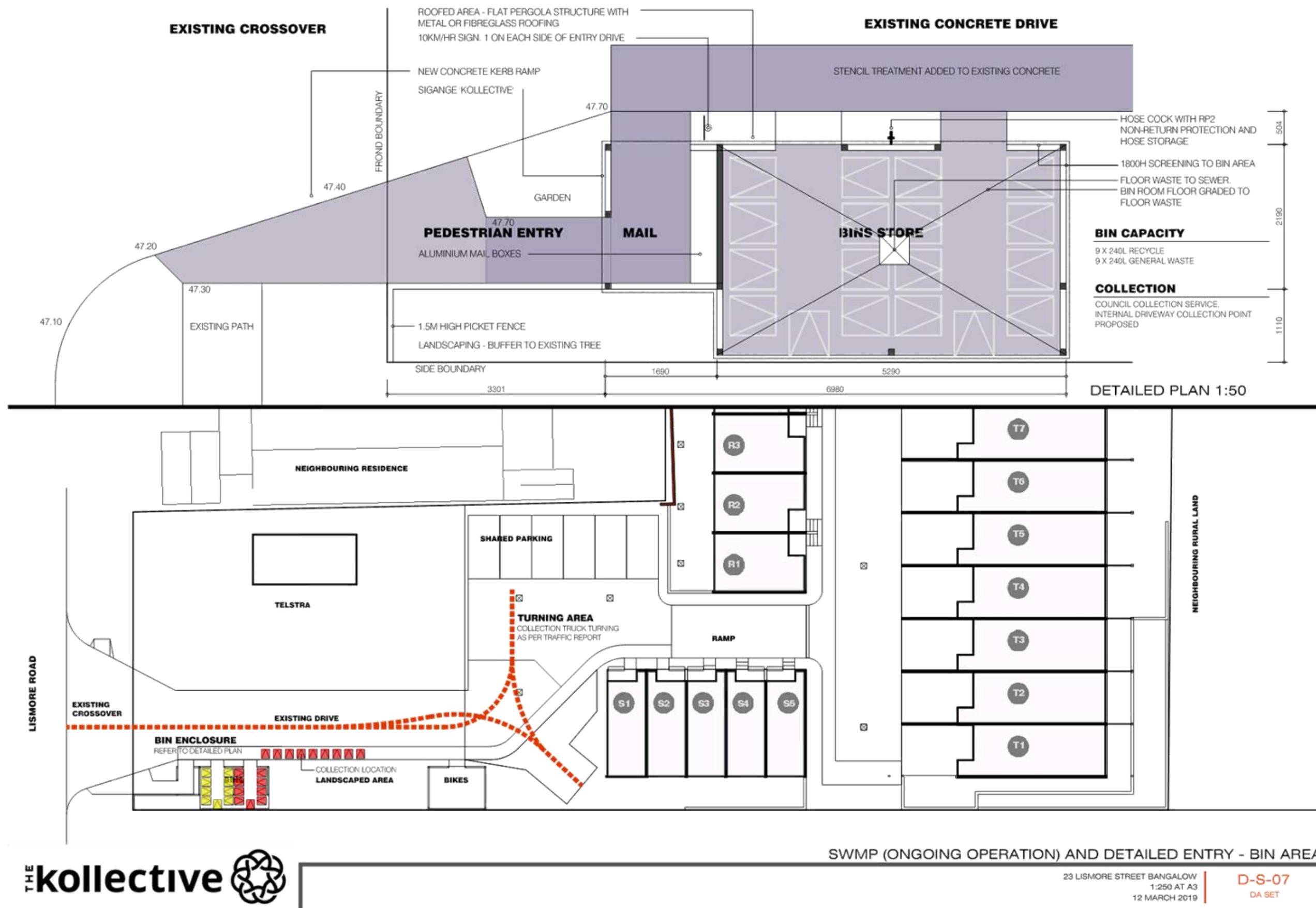
SHADOW DIAGRAM 12 NOON

23 LISMORE STREET BANGALOW
1:250 AT A3
01 MARCH 2019

D-S-05B
DA SET









D-P-09
DA SET

STORMWATER STRATEGY

ROOF WATER.
527m² OF ROOF WATER IS DISCHARGED TO UNDER GROUND
TANKS LOCATED AS SHOWN. THE REMAINDER OF
STORMWATER IS DISCHARGED TO INTERNAL PITS.

STORMWATER RETENTION (BASIX REQS)
AS A BASIX REQUIREMENT EACH UNIT IS REQUIRED TO
PROVIDE 3KL OF WATER STORAGE FOR GARDEN WATER.
(TOTAL 50KL) 10 X 5KL INTERLINKED TANKS ARE PROPOSED
WITH A SINGLE PUMP AND DEDICATED GARDEN WATER
RETICULATION

ON-SITE DETENTION
IN ADDITION TO RETENTION, 1X5KL TANKS COLLECTS
STORMWATER FROM RETENTION TANK OVERFLOW. A SLOW
RELEASE AND OVERFLOW DIRECTS EXCESS STORMWATER TO
THE EXISTING OUTLET AT THE SOUTH-WEST CORNER OF THE
SITE

HARDSCAPE
INTERNAL PATHWAYS AND DRIVEWAYS NOT SERVICED WITH
PITS DRAIN TO ADJACENT GARDEN BEDS. WHERE THERE ARE
CONCENTRATED LOADS, A RUBBLE PIT OR PASSIVE
DRAINAGE TRENCHES MAY BE REQUIRED.

ROOF WATER FROM THE BIKE STORE AND ENTRY AREA
DISCHARGES TO STREET SYSTEM.

STORMWATER CALCS

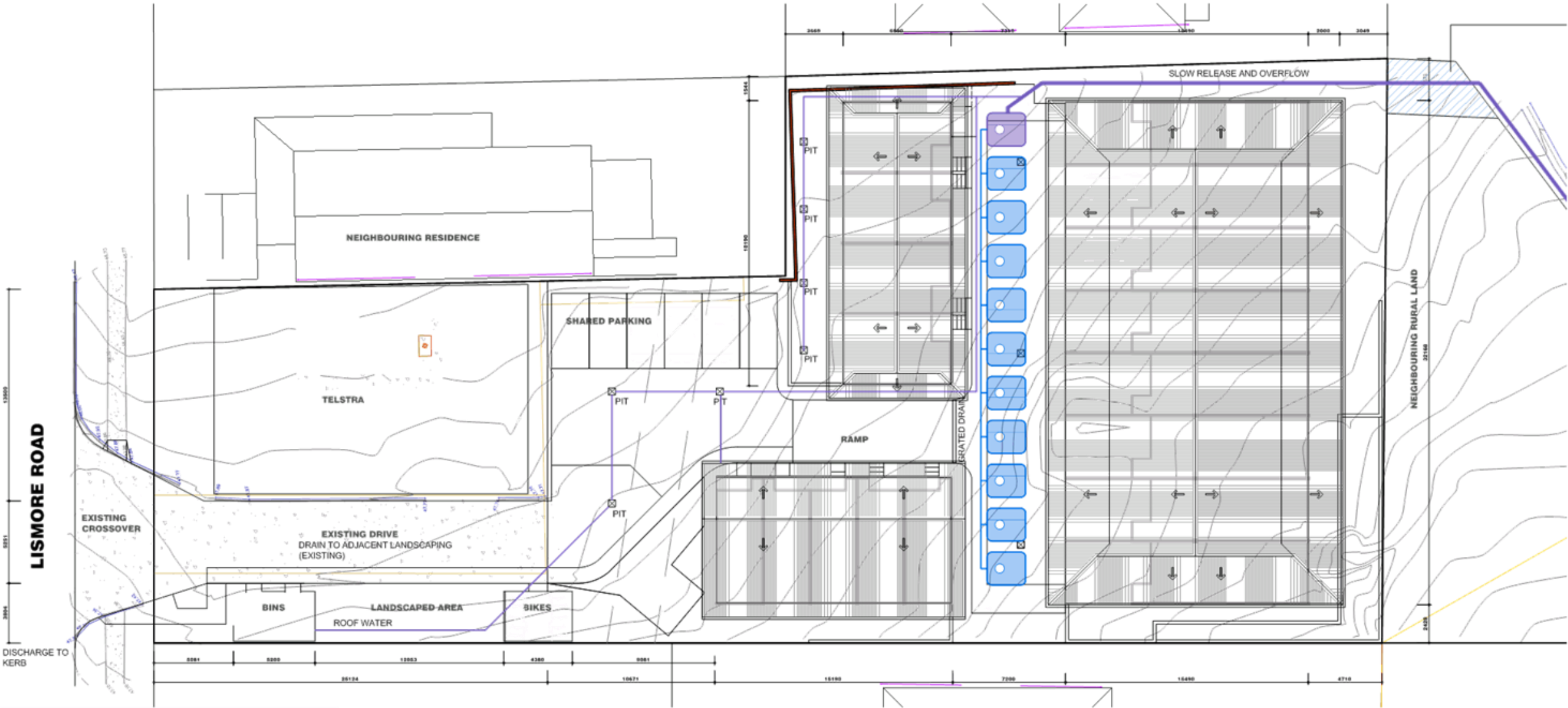
SITE AREA	2330m ²
BASIX REQD ROOF AREA TO TANKS (20m ² /DW)	340m ²
ADDITIONAL ROOF AREA TO TANKS	187m ²
TOTAL ROOF AREA DIRECTED TO TANKS	527m ²
TOTAL TANK CAPACITY	55KL
CAPACITY - PRIVATE USE (BASIX)	50KL
STORAGE RATIO	9.6M ² /KL

DETENTION CALCS

EXISTING HARDSCAPE (IMPERVIOUS AREA)	1240m ²
PROPOSED IMPERVIOUS	1577m ²
BALANCE - DETENTION	187m ²

KEY

	QTY
 RETENTION TANK - 5KL UNDERGROUND STRUCTURAL POLY TANK	X10
 DETENTION TANK - 5KL UNDERGROUND STRUCTURAL POLY TANK	X1



6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1

23 Lismore Bay Road, BANGALOW NSW 2479

Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the additional **need to satisfy heritage compatibility** conditions as the project site is **within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Listed heritage items in the immediate area** include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
- **Setbacks of only 1.5m will impose an excessive visual impact** on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building.
- The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.
- **Overlooking** will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also **invades the privacy of other adjoining properties**. A drainage easement on one common boundary prevents screening.
- **Overshadowing has not been shown** and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- **The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP** permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50%

increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

- **Noise buffers** between units and adjacent houses are not explained.
- **Solar access** is not available to all units.
- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- **Excessive impervious areas** will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA **does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.
- **Car parking is extremely challenging** with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Signature: Alli Page

Date: 15/5/2019

Name: Alli Page

3 A Rifle Range Rd
Bangalow.

Scott, Noreen

From: Adam Dunne <adam@aura.net.au>
Sent: Thursday, 9 May 2019 2:42 PM
To: council
Subject: Feedback re: Application: Development Application (10.2019.161.1)

Description: Multi Dwelling Housing Comprising Seventeen (17) Dwellings
Submitted Date: 05/04/2019

Application Type: Development Application

To whom it may concern,

I am writing to express my concerns and disapproval in relation to the proposed 17-residence complex that is currently proposed for **23 Lismore Road Bangalow**.

I do not feel this is in keeping with the local environment and residential requirements of the area.

This 17 apartment complex could result in more than 40 people living in a confined geographical space of the block area.

The additional car traffic through the day, plus the rubbish and noise from the additional 40+ people entering and leaving the lot is of great concern to me and my wife.

I do not believe this type of multi-dwelling development is in keeping with the quiet Bangalow lifestyle we invested into.

Please do not let this development get approved in its current form.

I would however find a reduced number of residence, maybe 6-8 townhouses much more acceptable to the local area. But definitely not 17 residences (and 35-40 people) all jammed into one block.

regards,
Adam

Adam Dunne
32 Charlotte St, Bangalow.

M: (+61) 0433 165 744

E: adam@aura.net.au

The information in this message is confidential and may be legally privileged. It is intended solely for the addressee(s). If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. Please contact the sender immediately if you have received this message in error.

OBJECTION TO DA NO. 10.2019.161.1**23 LISMORE RD BANGALOW**

The General Manager

Byron Shire Council

I have reviewed this application and in the following submission would like to submit my objections to the development of 23 Lismore Road Bangalow, DA NO 10.2019.161.1

I object to the application in its current form, with the following major concerns.

1. Parking and traffic safety on Lismore Road

The proposal does not address the parking and traffic safety issues associated with adding 17 residential units to Lismore Road. Five of these studios do not have carparks of their own. The others do not offer enough parking for the potential number of residents or visitors. Bangalow has extremely limited public transport – none at all on weekends - so it is a given that every occupant will require a car. 24 bicycle spaces are a nice 'sustainable' touch but we all know that with the surrounding hills and sub tropical weather they are never going to be a practical mode of transport.

The only available extra car parks would be on the already busy Lismore Road. This road is narrow and already at a standstill during peak hour. When exiting Robinson Street it is impossible to see past the cars parked along the road to your left. You must wait for a break in the traffic and hope someone lets you in, while being alert for traffic coming over the roundabout from Bangalow township. This situation has been exacerbated in the past 12 months with the growing occupation of the Meadows Estate, where everyone who lives here has to exit via Robinson Street.

In addition the area just east of 23 Bangalow Road, outside the old Readings building, is where a large number of school children cross Lismore Road and wait on the verge for buses on both sides of the traffic.

Adding additional parked cars to this scenario – many of which will want to execute a u-turn so they can head back to Bangalow or Byron – is putting the safety of our children at greater risk. It is a fatality waiting to happen, particularly when it rains as children take shelter either in their parents' parked cars – adding to the traffic congestion – or under the awning of the Readings building before they dash across the road when the bus turns up.

2. Inappropriate development within a heritage conservation area

The proposed new development is located on the edge of the Bangalow Heritage Conservation Area. Its bulk and scale do not protect or enhance the established landscape and building form in any way. The development is not consistent, nor does it reflect or complement, the residential character of the locality or the surrounding property configurations. The Bangalow Township Conservation Area has been identified to help preserve our unique village character, recognising that this 'historic village' feel not only helps drive tourism to the area but also protects the characteristics of the area which the community value. This development does not do this and greatly impacts on the privacy and lifestyle of its neighbours.

Council continues to spend money asking Bangalow residents via its Masterplan discussions, and now its *Shaping Our Neighbourhoods* survey what it would like to see for our future. My understanding is that one of the resounding responses is the need to 'maintain the village feel'.

Despite this Council continues to give in to developers, who are only in it to maximise their investment and do not care about the village feel or the negative impact they are having on current residents' lives.

Why waste money asking what residents want, if there is no regard for the answers?

I submit that Council should refuse to grant consent to the proposed development on 23 Lismore Road in its current form.

Rather than sending me a letter thanking me for my submission I would like Council to respond to my objections, in particular parking and traffic safety issues, and explain why they are or are not valid.

Thanks and regards,

Lisa Peacock

7 Thomas Street

Bangalow NSW 2479

Tel: 0428871766

Scott, Noreen

From: Benjamin Gilmour <bengilmour@benjamingilmour.com>
Sent: Friday, 10 May 2019 6:06 PM
To: council
Subject: ReDevelopment Application (10.2019.161.1) 23 Lismore Rd Bangalow

Dear Council,

I would like to lodge an objection to the DA for 23 Lismore Rd on the site of the Telstra depot. This whole street and the housing area behind it are almost entirely old Queenslanders that give Bangalow it's charm and tourist attraction. Now this proposal for 17 small units on a tiny lot?

Traffic

I live at 29 Lismore Rd, a few houses down. My children play on the footpath near this joint. The increased traffic into the address is of enormous concern and increased risk to my kids. Not to mention the trucks. Already, the 80km sign outside our house makes it dangerous to slow down and turn into our driveway. The risk of accidents will only increase now with more traffic going into the 23 Lismore Rd site. A solution would be to move the 80km/hr speed limit down to before Rifle Range road, which should be done anyway. Rifle Range road is part of Bangalow, yet traffic passes that road at 80kms/hr.

Character

Unit blocks not welcome in Bangalow, and is an affront to the historic character of the suburb to which many tourists come annually.

Construction

We have a baby and the construction 2 doors up will be extremely disturbing.

Many thanks.

Benjamin Gilmour
29 Lismore Rd Bangalow
0404789442

**SOUTH GOLDEN BEACH
COMMUNITY ASSOCIATION INC.**

PO Box 11, New Brighton. NSW 2483 Ph: 0429 803561
web: www.southgoldenbeach.com email: sgbca@bigpond.com



General Manager

Byron Shire Council
Station Street
Mullumbimby
NSW 2482

Re: DA No. 10.2019.161.1 - 23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

Dear Mark

South Golden Beach Community Association Inc. wishes to register our strong objection to the proposed multi-dwelling development on 23 Lismore Road, Bangalow.

- This development is within the Bangalow Heritage Conservation area and is surrounded by heritage houses. The scale, finishes and design are wholly incompatible with the residential character of the area. The proponents are relying on the Affordable Housing SEPP to reduce set-backs, building height planes and floor space ratios to such a degree that it would result in sub-standard living conditions for the residents.
- Adjoining neighbours would be adversely affected by elevated balconies and windows in living spaces overlooking their yards thereby drastically reducing their privacy. Set-backs of 1.5m would impose a negative visual and noise impact on neighbours.
- A total of 14 car parking spaces with challenging access is inadequate for 17 dwellings with less than one per unit and not making any provisions for extra parking for visitors. The one disabled car park is too narrow to comply.

- A landscape plan should have been submitted. Potential landscaping potential for communal areas is limited as is the minimum of 35m2 per dwelling.
- Shadow diagrams have not been submitted so we are unable to see the extend of the over-shadowing of the adjoining properties.
- Some units have limited solar access which is not acceptable.
- Excessive impervious areas will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- This DA is at odds with Bangalow's draft character narrative which emphasises the unique heritage character of the town. It is inconsistent with the objectives to protect and maintain the small, rural amenity of this village and as such should be refused.

Sincerely yours
Angela Dunlop
Secretary, SGBCA

.....

Scott, Noreen

From: Sandy Loyall <someone@bigpond.net.au>
 Sent: Friday, 10 May 2019 5:27 PM
 To: submissions
 Subject: 10.2019.161.1 ~ Opposition to the development planned for 23 & 59 Lismore Road

Good Afternoon,

Thank you for considering my thoughts which *oppose* the above DA in it's current form:

- Primarily, the development is far too large and dense considering the size of the block.
- There is not enough green space for the residents to enjoy. My understanding is that each dwelling is supposed to have 35sqm?
- The sheer lack of consideration for the people who will actually be living there is also glaring to me. People only live on top of each other in this way in cities because they have no other choice. There are simply way too many units for such a small block of land in a country town such as Bangalow.
- There is a similar-sized block currently being developed in Rifle Range Road, Bangalow. On it, there will be 5 small homes. Not 17...
- Its too much, too greedy. I roughly calculated that the income from this single block of land would be \$400,000 per annum!
- The buildings are incompatible with surrounding residential heritage character. Bangalow is a heritage town.
- The buildings look way too close (and high) to the boundaries when considering their impact on adjoining properties.
- For safety reasons, seniors generally prefer single-story dwellings.
- Might a development of this kind be more suited to a block adjoining the Bangalow Industrial Estate? It's only a short bike-ride into town?

For the reasons above, I strongly object to this development.

I would love to see plans showing (4? 5?) single-level units surrounded by plenty of green-space.

Regards,
 Sandy Loyall

 20 Rifle Range Road, Bangalow NSW 2479 AUSTRALIA
 (0408) 697 367

Scott, Noreen

From: ashuntley@bigpond.com
Sent: Friday, 10 May 2019 1:52 PM
To: submissions
Subject: FW: Objection DA 10.2019.161.1

From: ashuntley@bigpond.com <ashuntley@bigpond.com>
Sent: Friday, 10 May 2019 1:45 PM
To: submission@byron.nsw.gov.au
Cc: michael.lyon@cr.byron.nsw.gov.au; cate.coorey@cr.byron.nsw.gov.au; basil.cameron@cr.byron.nsw.gov.au; alan.hunter@cr.byron.nsw.gov.au; jan.hackett@cr.byron.nsw.gov.au; ashuntley@bigpond.com
Subject: Objection DA 10.2019.161.1

Attention
 Mr R.G Van Iersal & Acting Mayor Michael Lyon.
 RE: DevelopmentApplication 10.2019.161.1 Parcel No 45640 &267884 23 Lismore Road Bangalow.

We strongly object to this proposed development on the following grounds.

- 1 The Development is completely out of Character with surrounding federation era buildings and is in the Bangalow Conservation Area and does not satisfy compatibility conditions required for this heritage site . The site has adjoining Listed Heritage buildings including Blanche's House ,George Reading store and Hartford House and will destroy the amenity of these buildings and the Bangalow region as a whole.
- 2 The 3 ,2 storey buildings will overlook neighbouring homes and will destroy their privacy and introduce an unacceptable level of noise from so many accommodation units on such a small block of land some 2330M2. Noise Buffers between units and adjacent homes are not explained.
- 3 The minimal 1.5m Setback proposed will impose an excessive visual impact on adjoining properties as the residents would be viewing a 2 storey brick wall.
- 4 Overshadowing will be significant to existing homes due to the height and proximity to the Southern Boundary causing angst to existing neighbours.
- 5 Car Parking is insufficient for the 17units planned and would lead to residents parking in the street this would impair vision when exiting the development onto an ever busy Lismore road resulting in a unacceptable level of danger especially for any elderly residents. Car Parking within the Development is extremely challenging especially for the elderly due to the narrow and difficult access .
- 6 The scaled down size of the proposed units some as small as 32M2 and some upper level bedrooms of 1.8m are inadequate for decent respectable living .
- 7 Given the dwellings are multi storey they will not be suitable for most seniors and elderly residents as claimed. Older residents require little or no steps .
- 8 The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate .A single disabled carpark noted on proposed plan is no larger than others and does not qualify for disabled use.
- 9 There are no landscaping plans attached showing how a required minimum 35sqm per dwelling (595sqm or over a 1/4of the site) would be allocated for landscaping.
- 10 Plans are inconsistent with respect to Garbage areas and do not consider impact on adjoining neighbours. Such areas should not be included for landscaping space.
- 11 Solar access is not available to all units.

In summary this development is not suitable and will bring social upheaval to the residents, neighbours and those that live in the Bangalow area and surrounds. It will destroy the Character of the area that has attracted residents and tourists to the township . It is universally agreed that affordable housing is required but Council needs to review its requirements regarding affordable housing in the shire and its placement as this development is akin to 3rd world housing if approved will set a dangerous precedent for those that have only profit as their motive.

Alan Huntley
21 Gunel Rd
Possum Creek

Scott, Noreen

From: Yvonne Huntley <huntleyyvonne@gmail.com>
Sent: Friday, 10 May 2019 1:38 PM
To: submissions
Cc: michael.lyon@cr.byron.nsw.gov.au; alan.hunter@cr.byron.nsw.gov.au;
 basil.cameron@cr.byron.nsw.gov.au; cate.coorey@cr.byron.nsw.gov.au;
 jan.hackett@cr.byron.nsw.gov.au; jeannette.martin@cr.byron.nsw.gov.au;
 paul.spooner@cr.byron.nsw.gov.au; sarah.ndiaye@cr.byron.nsw.gov.au
Subject: Fwd: Objection DA 10.2019.161.1

Subject: Objection DA 10.2019.161.1
 Dear Sirs.

Mr R.G Van Iersal & Acting mayor Michael Lyon.

RE: Development Application 10.2019.161.1 Parcel No 45640 & 267884 23 Lismore Road Bangalow.

I strongly object to this proposed development on the following grounds.

Much of this email is copied as most of the points of objection are the same for all objectors but I would like to add that I have a friend who lived in one of the Kollektive in Byron Bay. He ended up moving out due to the space being too claustrophobic while the rent too high.

As I understand it this site is zoned Low Density. I'm not sure what criteria is used but this cannot by any means be Low Density living.

1. The Development is completely out of Character with surrounding federation era buildings and is in the Bangalow Conservation Area and does not satisfy compatibility conditions required for this heritage site . The site has adjoining Listed Heritage buildings including Blanche's House ,George Reading store and Hartford House and will destroy the amenity of these buildings and the Bangalow region as a whole.
2. The 3 ,2 story buildings will overlook neighboring homes and will destroy their privacy and introduce an unacceptable level of noise from so many accommodation units on such a small block of land some 2330 m2. Noise Buffers between units and adjacent homes are not explained.
3. The minimal 1.5m Setback proposed will impose an excessive visual impact on adjoining properties as the residents would be viewing a 2 story brick wall.
4. Overshadowing will be significant to existing homes due to the height and proximity to the Southern Boundary causing angst to existing neighbours.

5. Car Parking is not sufficient for the 17 units planned and would lead to residents parking on Lismore Rd this would impair vision when exiting the development onto an ever Busy Lismore road resulting in a unacceptable level of danger especially for any elderly residents. Car Parking within

the Development is extremely challenging especially for the elderly due to the and narrow and difficult access .

6. The scaled down size of the proposed units some as small as 32 m2 upper level bedrooms are 1.8m wide are inadequate for decent respectable living .
7. Given the dwellings are multi story they will not be suitable for most seniors and elderly residents as claimed. Older residents require little or no steps
8. The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate .A single disabled car park noted on proposed plan is no larger than others and does not qualify for disabled use.
9. There are no landscaping plans attached showing how a required minimum 35 sqm per dwelling 595 sqm or over a 1/4 of the site) would be allocated for landscaping.
10. Plans are inconsistent with respect to Garbage areas and do not consider impact on adjoining Ref No: 4117 7456 101. Such areas should not be included for landscaping space.
11. Solar access is not available to all units.

In summary this development is not suitable and will bring social upheaval to the residents, neighbours and those that live in the Bangalow area and surrounds. It will destroy the Character of the area that has attracted residents and tourists to the township . It is universally agreed that affordable housing is required but Council needs to review its requirements regarding affordable housing in the shire and its placement.

Regards

Yvonne Huntley

21 Gunel Rd

Possum Creek

0417339920

Scott, Noreen

From: Wendy Edwards <wpedwards@bigpond.com>
Sent: Friday, 12 April 2019 1:24 PM
To: council
Cc: Dr Chris
Subject: DA Application 10.2019.161.1

Dear Sirs,

DA Application 10.2019.161.1

I note that there are two properties listed as part of this Development Application, 23 Lismore Rd and 59 Lismore Rd. The attached documentation however only refers to 23 Lismore Rd and the 17 dwellings planned for that site. Why is 59 Lismore Rd listed on the application form? An online search of 59 Lismore Rd, Bangalow shows up as a 228,846 square metre Lot of rural land and as such is not zoned for suburban or medium density housing.

I have no objection to the plans submitted for 23 Lismore Rd on its own, other than some concerns regarding the safety of traffic entering and exiting this Lot. I would however have strong objection to the rural land identified as 59 Lismore Rd being rezoned for suburban development. Also 59 Lismore Rd encompasses the Byron Creek and is subject to flooding and therefore is not suitable for housing development.

I respectfully request therefore that the inclusion of 59 Lismore Rd in this application should be rejected.

Yours faithfully,
Wendy Edwards

Scott, Noreen

From: Alan Kennedy <info@tricend.com.au>
Sent: Thursday, 18 April 2019 1:55 PM
To: council
Subject: Submission for application (10.2019.161.1)

Att General Manager

I wish to object to this large overdevelopment of the subject site.

1. No communal open space has been provided
2. Inadequate parking & access arrangements with only fourteen car spaces and 24 bicycle spaces are proposed. The traffic report accompanying the DA states, 'Car parking will be provided to the terrace houses but not to the row houses or studio houses', **which is not justifiable**. Also vehicular circulation and parking appears to be very tight.
3. No Construction Management Plan (CMP) is provided
4. 40 per cent of the 17 dwellings would not receive required solar access, as prescribed by Council policy and is not a 'minor non-compliance' over site and solar access requirements is stated in the DA submission.
5. The driveways were 'not positioned to be a buffer between new and existing adjacent dwellings' and shows little or no regard for existing amenity to neighbours
6. Setbacks from neighbours, of 1,500–3,000mm side setbacks to the upper and lower levels of the building do not remove the need for upper floors to be set back'.
7. This development is not compatible with the character of the local area.
8. Based on track record of other developments in the shire by the developer they have not yet provided permanent affordable housing for singles and couples on moderate incomes living and working in the Byron Shire' and therefore is very likely to become sublet via Airbnb or similar holiday-let platforms.

Regards
Alan Kennedy
Bangalow

6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the additional **need to satisfy heritage compatibility** conditions as the project site is **within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Listed heritage items in the immediate area** include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
- **Setbacks of only 1.5m will impose an excessive visual impact** on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building very close to their boundary fence.
- The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.
- **Overlooking** will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also **invades the privacy of other adjoining properties**. A drainage easement on one common boundary prevents screening.
- **Overshadowing has not been shown** and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- **The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP** permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50%

increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

- **Noise buffers** between units and adjacent houses are not explained.
- **Solar access** is not available to all units.
- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- **Excessive impervious areas** will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA **does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.
- **Car parking is extremely challenging** with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Signature: Patricia Warren

Date: 9.5.19

Name: Patricia Warren

Scott, Noreen

From: Dannielle Collin <collindannielle@gmail.com>
Sent: Wednesday, 8 May 2019 6:05 PM
To: submissions
Subject: Objection Re to the development of LOT A; DP 3766877 (23 Lismore Road Bangalow)

The objection is submitted to the proposed development of DP 376877 for the following reasons;

- The bulk, scale and finishing is not in character for the village of Bangalow.
- Bangalow is an iconic heritage village. It is on the Byron Shire tourist trail and the proposed development grossly offends the existing character of the village.
- The proposed development will weaken the rural country aspect of the village and may set a precedent for similar developments ultimately leading to the destruction of the towns character.
- The proposed development is not consistent with other buildings in Bangalow Conservation Area Zone. The site is surrounded by a number of properties that are heritage listed or have been constructed in consultation with heritage consultations in order to keep in contact with the zoning requirements.
- The proposed development does not comply with a number of planning regulations set out in The State Environmental Planning Policy (Affordable Rental Housing) 2009 or the Byron Local Environmental Plan 2014.
- The proposed development would cause significant traffic generation and congestion in an already congested town centre.
- The proposed development is not supported by additional infrastructure.
- The proposed development is contrary to the community interest with the community listing traffic, parking and development as their dislikes in a recent survey (Bangalow Village Plan 2016)
- The proposed development will create noise, car and light pollution.
- It will be a significant disruption to the existing residents in the immediate vicinity.
- The proposed development does not actually offer permanent affordable housing given only a faction of the site is dedicated to this.

Submitted by D Collin

Scott, Noreen

From: Brunswick Heads Progress Association <brunswickheadsprogressassoc@gmail.com>
Sent: Wednesday, 8 May 2019 4:06 PM
To: submissions
Subject: DA No. 10.2019.161.1

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, Bangalow

The Brunswick Heads Progress Association objects to this proposed development for the following reasons:

- by any measure the proposed development fails a local character test. The buildings are clearly incompatible with surrounding buildings in the Heritage Conservation Area, predominantly single storey federation era houses constructed of timber with corrugated iron roofs.
- adjoining and nearby buildings have had to comply with heritage guidelines for past renovations.
- Setbacks of only 1.5m will impose an excessive visual impact on adjoining properties.
- The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
- The floor space ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- Excessive impervious areas will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.
- Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

We sympathise with the Bangalow community in its attempts to preserve the unique character of the town. We are facing similar challenges in attempting to preserve the unique character of Brunswick Heads. Developers should respond to and respect community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

--

Brunswick Heads Progress Association
PO Box 168
Brunswick Heads NSW 2483
brunswickheadsprogressassoc@gmail.com

"Over 100 years old and still going strong"

Wed. May 8th.

RE: DA No. 10.2019.161.1

23 Lismore Bay Road, BANGALOW NSW 2479

Multi- Dwelling Housing Comprising 17 Dwellings.

I would like to submit my objection to this DA.

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

The DA is incompatible with surrounding residential character, especially since the site is within the Bangalow Heritage Conservation area.

Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is inconsistent in terms of bulk, scale and finishes. Listed heritage items in the immediate area include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).

The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.

The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

I acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Kind Regards,

Kirsten Ingemar

36 Mullumbimbi Street

Brunswick Heads

Scott, Noreen

From: keith corral <corral.keith@gmail.com>
Sent: Wednesday, 1 May 2019 10:04 PM
To: council
Subject: DA 10.2019.102.1

DA 10.2019.102.1

The proposal of multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot, is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

I have reviewed this matter and I am concerned with the summary of key points noted below the DA fails to comply with requirements for approval. I encourage the council refuse the DA submission. The council needs to preserve the very distinctive character for which Bangalow is renowned.

- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
- The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Conservation Area.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk and finish.

- The adjoining cottage at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
- Setbacks include a 1.5m minimum that will impose an excessive visual impact on adjoining properties. Their residents at 15 Thomas St would face the red brick walls of a 2-storey building.
- The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
- Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.
- Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site.

- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas reduce the limited space available for landscaping.
 - Excessive concrete surface areas are unacceptable in a flood prone area.
 - The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
 - The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
 - Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
 - Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.
- There is an obvious need for affordable housing in Bangalow but it should be done in a manner which is consistent with local character and creates pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserable greedy approach by manipulating regulations to deliver a disappointing outcome that will have undesirable social consequences.

Keith Corrall

Resident @ 27 Lismore Road, Bangalow 2479

The proposal of multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot, is surrounded by heritage houses and is located within the

Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

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- Setbacks include a 1.5m minimum that will impose an excessive visual impact on adjoining properties. Their

residents at 15 Thomas St would face the red brick walls of a 2-storey building.

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- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas reduce the limited space available for landscaping.
- Excessive concrete surface areas are unacceptable in a flood prone area.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.

- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
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Keith Corral

Resident @ 27 Lismore Road, Bangalow 2479

Scott, Noreen

From: ellen corral <ellencorral@gmail.com>
Sent: Wednesday, 1 May 2019 10:15 PM
To: council
Subject: DA 10.2019.102.1

DA 10.2019.102.1

The proposal of multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot, is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

I have reviewed this matter and I am concerned with the summary of key points noted below the DA fails to comply with requirements for approval. I encourage the council refuse the DA submission. The council needs to preserve the very distinctive character for which Bangalow is renowned.

- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
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- Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.

- Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas reduce the limited space available for landscaping.
- Excessive concrete surface areas are unacceptable in a flood prone area.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
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Ellen Corral
Resident @ 27 Lismore Road, Bangalow 2479

Scott, Noreen

From: Peter Willis <pwillis@powerup.com.au>
Sent: Thursday, 2 May 2019 9:43 AM
To: submissions
Subject: Submission objecting to DA 10.2019.161.1

The Manager, Byron Shire Council

Submission objecting to DA 10.2019.161.1 – 23 Lismore Rd, Bangalow

I reside at 26 Palm-Lily Crescent Bangalow. I have reviewed the on-line details of the above DA . The proposal is totally unsuited to the Bangalow area and should be rejected. The heritage character of Bangalow is being eroded by unsuitable development – some already completed - and Council should address this issue. While some infill residential may be desirable for increasing the urban density in Bangalow, the proposed form of high density “unit type” accommodation is completely inappropriate and out of character.

I agree with the following reasons for rejecting the application:

1. DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
2. The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Conservation Area.
3. Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk and finish.
4. The adjoining cottage at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations.
5. Listed heritage items in the immediate area include Blanche’s House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
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10. The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
11. Noise buffers between units and adjacent houses are not explained.

12. Solar access is not available to all units.
13. There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site.
14. Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas reduce the limited space available for landscaping.
15. Excessive concrete surface areas are unacceptable in a flood prone area.
16. The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
17. The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
18. Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
19. Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.

Yours faithfully
Peter Willis

26 Palm-Lily Crescent, Bangalow, NSW 2479
Mob: 0409 579 232

Peter Willis,
Mob: 0409 579 232; Home: (02) 6687 1724; Email: pwillis@powerup.com.au

Please consider the environment before printing this e-mail.

Scott, Noreen

From: Don Osborne <9ftmalibu@gmail.com>
Sent: Thursday, 2 May 2019 9:58 AM
To: submissions
Subject: Fwd: DA 10.2019.102.1 - Impact on Bangalow Heritage Neighbourhood

Please find the following objection to this DA

----- Forwarded message -----

Subject: DA 10.2019.102.1 - Impact on Bangalow Heritage Neighbourhood

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

- DA consent is subject to a local character test and the buildings are dramatically **incompatible** with surrounding residential character.
- The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Conservation Area.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk **scale** and finish**es**.
- The adjoining cottage at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
- Setbacks include a 1.5m minimum that will impose an excessive visual impact on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building.
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- Noise buffers between units and adjacent houses are not explained.

- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas reduce the limited space available for landscaping.
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- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
- Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.

There is an obvious need for affordable housing in Bangalow but it should be done in a manner which is consistent with local character and creates pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserable greedy approach by manipulating regulations to deliver a disappointing outcome that will have undesirable social consequences.

Regards,
Don Osborne (13A Rifle Range Rd, Bangalow)
Ret. Architect and Heritage Consultant

Scott, Noreen

From: Ronny Andersen-Seaman <ronnygary@hotmail.com>
Sent: Thursday, 2 May 2019 1:20 PM
To: submissions; michael.lyon@cr.byron.nsw.gov.au; basil.cameron@cr.byron.nsw.gov.au
Subject: Development - 23 Lismore Rd Bangalow. SA 10.2019.102.1

Good Morning – To Whom It May Concern

I have looked at the DA for 23 Lismore Rd Bangalow and I have some concerns regarding this development in the Bangalow Heritage area.

I feel 17 individual units on the size of the lot is way out of character for Bangalow. There is limited parking onsite and nil green space. There are no landscaping plans for the proposed development.

I feel there will be social issues with that many people living in cramp conditions on a small block envelope. Also the floor space ratio does not comply with the LEP.

I also feel most seniors in the area would not want stairs in their living space. I also not solar access is not available to all units.

This type of development in the Bangalow area will set a precedent if approved. The living space in some of the units are way to small for seniors.

Regards

Gary Seaman
72 Charlotte Street
Bangalow NSW 2479

Sent from Mail for Windows 10

RESIDENTS OBJECTION TO THE DEVELOPMENT OF LOT A; DP 376877

23 Lismore Road, Bangalow

Submitted by; Mr S. Scott & Ms A. Burton 25b Lismore Road, Bangalow.

SUMMARY

This objection is respectfully submitted to the proposed development of DP 37 6877 for the following reasons:

- The proposed development grossly offends the existing character of the Bangalow Conservation Area which predominately consists of period dwellings and earlier centuries commercial premises (including an Apothecary) that line the road from both entrances to the town centre. The ambience created by the town's character and its "olde world" charm is what attracts the multitude of tourists who visit the town all year around and has caused celebrities from the performing arts to take up residence in Bangalow.
- The proposed development does not comply with the regulations set out in the *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
- The proposed development does not comply with the statutory planning instrument known as *Seniors Living Policy: Urban Design Guidelines for Infill Development*
- The proposed development does not comply with the regulations set out in the *Byron Local Environmental Plan, 2014*.

Following are details in support of the above referenced reasons.

1.0 Planning regulations applicable to the proposed development:

Regulations applicable to the development of DP 376877 are set out in the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. These include the following:

Part 2, Division 1, Clause 13

"This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent".

The development is proposed to have 5 x 32m sq. studio apartments = 160m sq.
Total gross floor area (GFA) of for the development is 1112m squared. Therefore,

proportion of development for affordable housing (studios only) appears to be less than 20% (about 14%).

Part 2, Division 1, Clause 14:

- a) Stipulates that the minimum footprint for an application not to be refused should be 35m2 & the studio dwellings are only 32 m2 (per applicant's Statement of Environmental Effects, page 11).
This suggests that the affordable housing segment of the design is below expected minimum size of the State planning authorities & could as such be refused.
- b) Stipulates that the area must either provide 35 square metres of landscaped area per dwelling or 30% of the site should be landscaped. The applicant's landscaped area is less than this required 30% (per applicant's Statement of Environmental Effects, page 11).

Part 2, Division 1, Clause 16A

"A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area".

As set out in the Introduction to this submission the proposed development is not consistent with those of the surrounding dwellings or in line with the character of the local area.

In accordance with clause 15 (1) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* a consent authority is required to take in to consideration the *Seniors Living Urban Design Guidelines for Infill Development* to the extent where those provisions are consistent with the SEPP ARH. Below describes how they are not consistent with the SEPP ARH;

1.01 Street layout & hierarchy

Asks is it consistent with those around it – no it is not. The street hierarchy is free standing homes with off street parking for resident cars.

1.03 – Built environment

A compatibility check notes higher density than surrounding built environment. Proposal is not consistent with R2 zone low density, the Bangalow Village Plan (see Style Guide photos on page 45 - 47) or the spirit of the Heritage Conservation Area Zoning.

7.5 - SEPP infrastructure

Applicant describes the proposed development as “not a traffic generating development”.

- 17 dwellings, one driveway, 14 parking spaces (potentially only 13) with likely more than one car per dwelling equals significant traffic generation for a country town.
- What infrastructure contributions are being made to support the community? Eg. Roads, sewer, local amenities etc.

7.7.19 - Private open space

The positioning of the private open spaces of the studio dwellings will be backing onto bedrooms which is a key consideration of this performance criteria.

Byron Local Environmental Plan (LEP) 2014 requirements are not fulfilled as follows:

- Planned height greater than 9 metres, (as described in the applicant's - Statement of Environmental Effects, page 11). This does not comply with the height restrictions of 9.0 metres.
- The site is within the R2 low density zoning & the proposal is medium density.
- The floor space ratio (FSR) is 0.56 (max is 0.5:1). The applicant seeks to use clause 2 for bonus floor space, but per Clause 1, they do not appear to meet the minimum requirement (20% - as described above) for affordable housing to qualify for the bonus.

2.0 The Development:

- The Development is for the building of Multi-dwelling & multi-story, medium density dwellings consisting of:

8 x two bedroom double story townhouses

4 x one bedroom double story dwellings and

5 x double story studios (nominated as 'affordable housing').

3.0 Impact on the character of the Bangalow Conservation Area

Will weaken the rural, country aspect of the Bangalow town.

- Does not align with the current building styles present in the R2 zone - low density, single story, period structures.
- Is not in the spirit of the Bangalow Conservation Area.
- Would set a precedent for further similar developments which will destroy the character of the town.
- Will increase traffic congestion in an already congested town centre.

Is contrary to the will of the people as surveyed in the Bangalow Village Plan (2016), which indicated that:

Among the top five dislikes in the community are:

- Development
- Traffic
- Lack of parking

The things that the community wish to preserve are:

- Rural village feel; low scale, less traffic
- Prevent loss of character
- "new development must fit in with what's already here".

The Bangalow vernacular style guide of buildings that should be avoided (such as is proposed):

- Typical brick & tile suburban style housing of slab on ground construction
- Modernist style buildings & architecture that have a heavy & highly urbanised appearance.
- Metal window frames.

Will be of significant disruption to the lifestyle of those in the immediate vicinity of the development with regard to noise pollution, car pollution, overshadowing and ambient light pollution.

In the introduction the applicant suggests that the development is to provide "*permanent affordable rental housing*". The fact that the development only has to provide a fraction of the site to affordable housing & only for 10 years does not equate to the stated "*permanent affordable rental housing*".

The examples of properties shown in the Thomas Street development (for comparison against the developers proposal) are not in the Bangalow Conservation Area. The 'in keeping with local character' argument for double story development of a higher density does not fit. Further, the slope of the hill in Thomas Street has a steeper fall on the hill than at the proposed site - the subsequent height impact of a double story development will have a more significant impact as none of the current neighbouring properties of the development are double story.

Sophie Scott

25b Lismore Road
Bangalow, NSW, 2479

2nd May, 2019

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

Dear Mayor Richardson,

The reason of my letter is to not have 17 brick double story buildings next to our house.

They would look very different to the other vintage houses in our street and leave us in the dark shadows.

Some of the buildings will be right next to my window - we deserve more privacy. Fourteen cars will drive right past my window and make even more pollution and traffic.

I hope this letter will make you think in different ways and make me have a better future.

Sincerely,

Sophie

Scott, Noreen

From: Ronny Andersen-Seaman <ronnygary@hotmail.com>
Sent: Thursday, 2 May 2019 2:05 PM
To: submissions; basil.cameron@cr.byron.nsw.gov.au; michael.lyon@cr.byron.nsw.gov.au
Subject: 23 Lismore Rd Bangalow - DA - 10.2019.102.1

Good Afternoon Byron Council

I object to the proposed development on land at **23 Lismore RD Bangalow – DA – 10.2019.102.1**

I moved to Bangalow because of the quiet village and heritage style of this unique village. I feel the development of 17 units does not fit the heritage style of the Bangalow area. I note there is no landscaping plan for the site. I also note there is very limited onsite parking and Lismore Rd is already very busy traffic wise. I feel Seniors and disabled would not want stairs in their home. Some of the units are very tiny and I believe social issues may develop with that many people living on such as small lot. Neighbouring properties will be overlooked by this development height.

I am not against development but this is over development for such a small building site. We built one house on our 776sqm block, we also spent additional money to make sure it fitted in with the heritage look of the Meadows Estate and surrounding area.

Bangalow Village is a unique place and we all need to make sure the heritage style remains for the next generations. **Byron Shire is a beautiful area and is very unique.** I would hate to see it become over developed like many other shires and States that are now having ongoing social issues.

Thank you for your time in this matter.

Regards

Ronny Andersen – Seaman
72 Charlotte Street
BANGALOW NSW

2nd May 2019

Sent from Mail for Windows 10

Scott, Noreen

From: Jennifer Coman <jennifer.coman@bigpond.com>
Sent: Thursday, 2 May 2019 5:00 PM
To: submissions
Subject: DA10.2019.161.1

I wish to submit an objection to DA10.219.161.1.

The site is within the Bangalow Heritage Conservation area and surrounded by small "Heritage" style cottages with which the proposed building is completely incompatible; it would have a decidedly negative effect on the area. The Bangalow community strongly supports retaining its Heritage character which is demonstrated by the "character statement" recently put forward by our Guidance (Master Planning) Group, also by a survey conducted a few years ago and the Bangalow Settlement before then. Both locals and visitors appreciate Bangalow's special Heritage character and our Heritage Conservation area is recognised in the LEP.

Density is such that the size of the individual units is compressed and could not provide any quality of living, also there is no green space and provision for car parking is inadequate. There are some significant non-compliances with Council's building requirements, e.g. elevated height planes in some areas and overlooking from upper windows and balconies will invade the privacy of adjoining properties.

This is a most unsuitable proposal for Bangalow, in particular for our Conservation Heritage area.

Thank you.

Jenny Coman
Bangalow

Scott, Noreen

From: Melissa Morrissey <melissamorrissey888@gmail.com>
Sent: Friday, 3 May 2019 1:15 PM
To: submissions; michael.lyon@cr.byron.nsw.gov.au
Cc: council; cate.coorey@cr.byron.nsw.gov.au; basil.cameron@cr.byron.nsw.gov.au;
 alan.hunter@cr.byron.nsw.gov.au; jan.hackett@cr.byron.nsw.gov.au
Subject: Development Application for 23 Lismore Road, Bangalow - Objection

Attention: Mayor Simon Richardson & Acting Mayor Michael Lyon

Dear Sirs and fellow councillors

Re: Development Application for 23 Lismore Road, Bangalow - Objection

Thank you for providing the details of the Development Application (DA) for 23 Lismore Road, Bangalow.

I live in Charlotte Street which runs directly behind the proposed development. Together with other residents & a local planning expert we have reviewed the DA and come to the conclusion that it must be stopped.

I would like Byron Shire Council to record my objection to the DA on the basis of the following reasons:

1. The DA is totally out of character with Bangalow's beautiful heritage buildings and homes, in fact the terraces are downright ugly.
2. The project site is within the Bangalow Conservation Area and therefore it is of the utmost importance that the Bangalow heritage character is maintained.
3. The surrounding buildings are single storey federation era & Queenslander houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk and finish.
4. Many homes in the immediate area are heritage listed including Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
5. The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
6. Setbacks include a 1.5m minimum that will impose an excessive visual impact on adjoining properties.
7. Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.
8. Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
9. The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
10. Setbacks include a 1.5m minimum that will impose an excessive visual impact on adjoining properties.
11. Solar access is not available to all units.
12. There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site.
13. Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas reduce the limited space available for landscaping.

14. Noise buffers between units and adjacent houses are not explained.
15. Excessive concrete surface areas are unacceptable in a flood prone area.
16. The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
17. Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit.
18. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
19. Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.
20. The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.

Yours sincerely

Melissa

Melissa Morrissey
68B Charlotte Street
Bangalow NSW 2479
M: 0418 281 254
melissamorrissey888@gmail.com

Alternatively:
P.O. Box 588
Bangalow NSW 2479

Scott, Noreen

From: Rosemary Gillett <rosemary_gillett@yahoo.com.au>
Sent: Friday, 3 May 2019 6:11 PM
To: submissions
Cc: council; michael.lyon@cr.byron.nsw.gov.au; cate.coorey@cr.byron.nsw.gov.au; basil.cameron@cr.byron.nsw.gov.au; alan.hunter@cr.byron.nsw.gov.au; jan.hackett@cr.byron.nsw.gov.au
Subject: DA No.10.2019.161.1 by Lismore Venture Pty Ltd for Multi Dwelling Housing at 23 Lismore Road Bangalow

Dear Sir/Madam,

I strongly object to the proposal by Lismore Venture Pty. Ltd. for Multi Dwelling Housing at 23 Lismore Rd. Bangalow. Over the last thirty years I have regularly visited the historic town of Bangalow. I have observed the transformation from a town where trucks roared down the main street to a tranquil village with inviting restaurants, shops and living spaces. It is wonderful to see that the heritage buildings have been preserved within the town and adjoining residential areas. This application for Multi Dwelling Housing within the Heritage Conservation area would seriously detract from the historical ambience of the town and heavily impact on the existing residents for the following reasons:-

- The proposal is situated within the Heritage Conservation area. The surrounding heritage houses and buildings are single storey, timber built with corrugated iron roofs. Some of these buildings are 100 years old. The proposed development is cumbersome and incompatible with the existing buildings. The height of the proposed development dwarfs the existing houses in Thomas St. The visual impact of a two storey red brick wall will be daunting.
- The proposal will severely impact on the residents of Thomas St. for several reasons. The development plans show that high balconies and windows will overlook the yards, gardens and swimming pools of immediate neighbours, impacting on privacy. This is particularly true for the residents of 15 Thomas St. There is also the potential problem of overshadowing for some residents on properties adjoining the development proposal. The plans show a lack of landscaping on the site. Residents of Thomas St are likely to be impacted by noise and increased traffic.
- The development application is for 17 units, however there is only provision for 14 onsite car spaces. The car spaces provided look narrow and difficult to negotiate. Disabled parking is insufficient. It is likely that the occupants of each unit will need one if not two car spaces. Lismore Rd is a high traffic area with no provision for parking. This will mean Thomas St, at the back of the development, will become a default parking area. Residents of Thomas St will be severely impacted by cars parked outside their properties, making it difficult for them to reverse onto the street safely.

Bangalow residents living within the Heritage Conservation area are required to comply with heritage compatibility conditions when renovating or extending their homes. The development proposed clearly does not comply with these requirements. It will negatively impact on the character of the historic town of Bangalow and the community. I call on the council to reject DA No. 10.2019.161.1 and preserve the historic and distinctive character of Bangalow.

Yours faithfully

Rosemary Gillett

Scott, Noreen

From: no-reply-da-tracking@byron.nsw.gov.au
Sent: Saturday, 4 May 2019 7:42 PM
To: submissions
Subject: 10.2019.161.1_Submission and Acknowledgement_Oppose_bthamish@gmail.com - tim coleman

Description: Multi Dwelling Housing Comprising Seventeen (17) Dwellings

Properties: 23 Lismore Rd, Bangalow 2479 NSW (LOT: A DP: 376877)
59 Lismore Rd, Bangalow 2479 NSW (LOT: 2 DP: 1214341)

Council acknowledges receipt of your submission in relation to the above Development Application. Your participation in the assessment process is greatly appreciated.

The comments outlined in your submission will assist in Council's consideration of the matter. Council will inform you of its decision once the Development Application has been finally determined.

For your convenience Council's Application Tracker provides you the opportunity to follow the details and progress of applications online.

If you have any enquiries in relation to the application please contact Robert Van Iersel of Council's Planning and Environment Department on 02 6626 7000.

Summary of Submission details.

Name: tim coleman
Address: 7 Leslie Street
Phone: 402278704
EMail: bthamish@gmail.com
Submission: Oppose
Grounds For Objection or Support: Not suitable for Bangalow, would ruin the already congested town.
Dangerous amount of extra traffic on Lismore road. The development would adversely impact the amenity of the town causing distress to existing housing behind the site.

Yours faithfully,
Byron Shire Council

70 Station Street
PO Box 219
Mullumbimby NSW 2482
02 6626 7000
Web <https://www.byron.nsw.gov.au/>
All formal correspondence to submissions@byron.nsw.gov.au

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loss, damage or injury is possible. Verified information should be obtained in writing directly from the authorised Council officers.

Scott, Noreen

From: no-reply-da-tracking@byron.nsw.gov.au
Sent: Saturday, 4 May 2019 7:55 PM
To: submissions
Subject: 10.2019.161.1_Submission and Acknowledgement_Oppose_coleman45@bigpond.com - Janne Coleman

Description: Multi Dwelling Housing Comprising Seventeen (17) Dwellings

Properties: 23 Lismore Rd, Bangalow 2479 NSW (LOT: A DP: 376877)
59 Lismore Rd, Bangalow 2479 NSW (LOT: 2 DP: 1214341)

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If you have any enquiries in relation to the application please contact Robert Van Iersel of Council's Planning and Environment Department on 02 6626 7000.

Summary of Submission details.

Name: Janne Coleman
Address: 7 Leslie Street
Phone: 266871914
EMail: coleman45@bigpond.com
Submission: Oppose
Grounds For Objection or Support: Not in keeping with existing neighbourhood and buildings too close to neighbouring houses especially as the design is two story. Design does not consider the heritage style and values of Bangalow. Over development for the land size. Will create extra traffic on Lismore Road which is already dangerous from excessive traffic movements.

Yours faithfully,
Byron Shire Council

70 Station Street
PO Box 219
Mullumbimby NSW 2482
02 6626 7000
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Scott, Noreen

From: no-reply-da-tracking@byron.nsw.gov.au
Sent: Sunday, 5 May 2019 10:59 AM
To: submissions
Subject: 10.2019.161.1_Submission and Acknowledgement_Oppose_nmoore60@bigpond.net.au
- Norman Moore

Description: Multi Dwelling Housing Comprising Seventeen (17) Dwellings

Properties: 23 Lismore Rd, Bangalow 2479 NSW (LOT: A DP: 376877)
59 Lismore Rd, Bangalow 2479 NSW (LOT: 2 DP: 1214341)

Council acknowledges receipt of your submission in relation to the above Development Application. Your participation in the assessment process is greatly appreciated.

The comments outlined in your submission will assist in Council's consideration of the matter. Council will inform you of its decision once the Development Application has been finally determined.

For your convenience Council's Application Tracker provides you the opportunity to follow the details and progress of applications online.

If you have any enquiries in relation to the application please contact Robert Van Iersel of Council's Planning and Environment Department on 02 6626 7000.

Summary of Submission details.

Name: Norman Moore

Address: 15 Blackwood Crescent, Bangalow

Phone: 0407 847 541

EMail: nmoore60@bigpond.net.au

Submission: Oppose

Grounds For Objection or Support: This development is over sized for a relatively small site. The dwellings are not unreasonably sized in them selves, as affordable housing. However the lack of car parking and the absence of green or recreational space, will make them uninhabitable over time. I am aware that other developments by this owner have previously met or exceeded the median, already, high rentals achieved in the Byron Bay area and as such can not lay claim to being affordable housing as titled.

Yours faithfully,
Byron Shire Council

70 Station Street

PO Box 219

Mullumbimby NSW 2482

02 6626 7000

Web <https://www.byron.nsw.gov.au/>

All formal correspondence to submissions@byron.nsw.gov.au

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email in error please notify Byron Shire Council immediately. Information transmitted via email may be subject to corruption by the process. Information contained in this email should not be relied upon where loss, damage or injury is possible. Verified information should be obtained in writing directly from the authorised Council officers.

Scott, Noreen

From: Ruth Winton-Brown <ruth@reclaimingjoy.com>
Sent: Sunday, 5 May 2019 12:40 PM
To: submissions
Subject: Bangalow DA 10.2019.161.1

To Whom it May Concern

I am writing to lodge objection to the DA at 23 Lismore rd.Bangalow.

My objections are the size of the studio units in a development which is not in keeping with the heritage character of the area.

This development is presented as low cost housing however the control of the rent has no guarantee to be low cost housing.

Parking, renewable energy and noise buffers are not carefully considered in this development.

This development does not meet the basic needs of a genuine low cost housing development which we do need in Bangalow and does not meet the heritage standards of the area Kind regards Ruth Winton Brown

507 Friday Hut rd
Bangalow 2479

Sent from my iPad

PN: 45640
 BYRON SHIRE COUNCIL
 DOC NO:
 REC'D: 6 MAY 2019
 FILE NO: A7169
 ASSIGNEE: A. Wilson

6.5.19

To The General Manager

Byron Shire Council.

DA No 10.2019.161,1 23 lismore Rd Bangalow (Lot A DP376877, Lot 2 DP1214341)

I wish to comment on the above Development Application.

* The 17 dwellings are totally incompatible with the surrounding residential and commercial buildings eg: Readings Store and Blanche's house. Infact the project site is within the Bangalow Conservation Area. Any other buildings and/or renovations have been obliged to comply with heritage guidelines.

* Too many on a small site and too big.

* Parking for only 14 vehicles, any others would have to park on Lismore Rd where there are NO parking spaces and traffic rates of around 1000 vehicle movements per hour. (Frequent nose to tail accidents in traffic queues going up to the roundabout at the Granuaille Rd intersection.

* Excessively large concreted areas pose a major drainage problem for the properties below on the Western side, not just one but four. Our area experiences considerable rainfall which does create major drainage problems from our sloping terrain.

* Ridiculously small room areas, even Public Housing is required to comply with basic room and area measurements.

* Privacy.....upper balconies of this development will overlook all surrounding properties with a considerable loss of privacy in their back yards.

* There is an obvious need for affordable housing in Bangalow but it should be done in a manner which is consistent with local character that has pleasant livable spaces that can be enjoyed by low and middle income earners.

This DA has a miserable,greedy and cynical approach by attempting to override regulations to produce a substandard development. Bangalow is this Shire's only Federation Village, very

special and much in need of appreciation as such by planners and developers alike.

T & R Wright

PO Box 7 Bangalow 2479

0428871539



BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

10 2019.1611



April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: Say CAMPBELL.

and I live at: BILLINUDGEL.

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

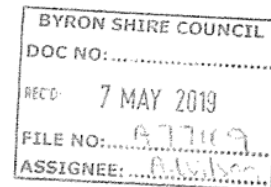
1. It will deliver long term rental housing and generates housing diversity.
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.
4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed:

B Campbell

Date:

2-4-2018



10 75670

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support - 23 Lismore Road Bangalow NSW

My name is: SIMON JOHN KINNY

and I live at: 10 BOMBORA PLACE,
LENNOX HEAD, 2478

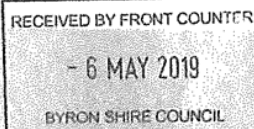
I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.
4. Has the potential to fill the gap in for housing products missing within the Shire - including more affordable housing for key workers, housing for retirees, and housing for young persons and couples.

Signed: [Signature]

Date: 1/5/19

BYRON SHIRE COUNCIL
DOC NO:
REC'D: 7 MAY 2019
FILE NO:
ASSIGNEE:



April 2019

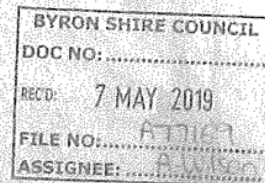
Letter of Support - 23 Lismore Road Bangalow NSWMy name is: Jacu Matthewsand I live at: 7/116 Stuart St

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity.
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.
4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed:

Date:

10.4.19

RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support - 23 Lismore Road Bangalow NSW

My name is: Terry Cronin

and I live at: 13 Carlyle Street

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

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4. Has the potential to fill the gap in for housing products missing within the Shire - including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Regards

[Signature]

Date: 10.4.

BYRON SHIRE COUNCIL
DOC NO:
REC'D: 7 MAY 2019
FILE NO: A77167
ASSIGNEE: A. Wilson

RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: Nick Teague

and I live at: 6/1 Kendall St Byron Bay

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

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Signed: [Signature]

Date: 3/4/2019

BYRON SHIRE COUNCIL
DOC NO:
RECD: 7 MAY 2019
FILE NO: AT169
ASSIGNEE: A Wilson

RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support - 23 Lismore Road Bangalow NSW

My name is: Katie Teague

and I live at: Unit 6/1 Kendall St BYRON BAY

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

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2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
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Signed: [Signature]

Date: 3/4/19

BYRON SHIRE COUNCIL
DOC NO:
REC'D: 7 MAY 2019
FILE NO: A77169
ASSIGNEE: A. Wilson

RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: Loë Connor

and I live at: 1 Kendall street, Byron Bay

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

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Signed: [Signature]

Date: 3rd April

BYRON SHIRE COUNCIL
DOC NO:
REC'D: 7 MAY 2019
FILE NO: A77169
ASSIGNEE: A. Wilson

RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support - 23 Lismore Road Bangalow NSW

My name is: JACK SAVAGE

and I live at: 1926 KOONMUM RANGE RD, MULLUMBIMBY

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

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Signed: Jack Savage

Date: 11/04/19

BYRON SHIRE COUNCIL
DOC NO:
REC'D: 7 MAY 2019
FILE NO: A77163
ASSIGNEE: A.Wilson

RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support - 23 Lismore Road Bangalow NSW

My name is: Lisa Bryant

and I live at: 8 Boondoon Cres., Ocean Shores 2483

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

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4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed: L Bryant

Date: 10-4-2019.

BYRON SHIRE COUNCIL
DOC NO:
RECD: 7 MAY 2019
FILE NO: A71169
ASSIGNEE: A.WISO

RECEIVED BY FRONT COUNTER

- 6 MAY 2019

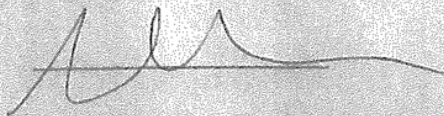
BYRON SHIRE COUNCIL

April 2019

Letter of Support -23 Lismore Road Bangalow NSWMy name is: Michelle Kerriskand I live at: 192 B Kooragang Range Road, Mullumbimby
N.S.WI provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

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2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
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4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed:



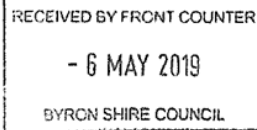
Date:

11/4/19

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2



April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: SARAH BERRY

and I live at: 96 BYRON ST BANGALOW

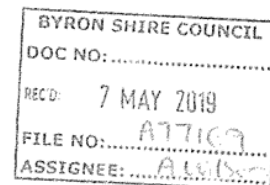
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Signed:

[Signature]
1/5/19

Date:



BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

RECEIVED BY FRONT COUNTER

- 6 MAY 2019

BYRON SHIRE COUNCIL

April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: TOBY PATTERSON

and I live at: 96 Byron St Bangalow

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

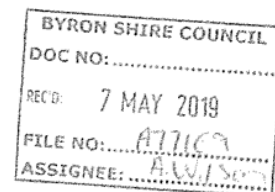
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4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed:

[Signature]

Date:

1.5.19.



RECEIVED BY FRONT COUNTER
- 6 MAY 2019
BYRON SHIRE COUNCIL

April 2019


Letter of Support - 23 Lismore Road Bangalow NSW

My name is: Alexis Sabatino

and I live at: 7/116 Stuart St. Mullumbimby

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity.
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.
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Signed: 

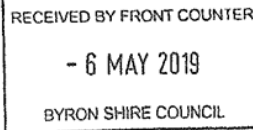
Date: 10-4-19

BYRON SHIRE COUNCIL
DOC NO:
RECD: 7 MAY 2019
FILE NO: A77169
ASSIGNEE: ADWIS

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2



April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: GLENN HEALD

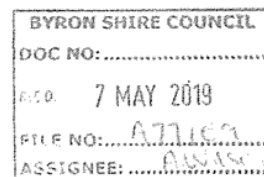
and I live at: LENNAX HEAD

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity.
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.
4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed: [Signature]

Date: 15/4/19



First National Byron
The Value of...

6 Fletcher Street
(PO BOX 610)
Byron Bay, NSW 2481

T 02 6655 8666
F 02 6655 8643
W byronbayfn.com.au

ABN: 15 124 715 166

15th April 2019

Attention Rob Van Iersel

Byron Shire Council

70 Station Street

Mullumbimby NSW 2482

Rob.VanIersel@byron.nsw.gov.au



Dear Rob,

23 Lismore Road, Bangalow

This letter is supplied to Byron Shire Council in support of the proposed development at 23 Lismore Rd, Bangalow. As the appointed local property manager for the Kollektive, we support the development because:

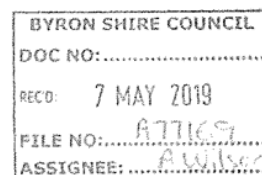
1. Has the potential to fill the gap in for housing products missing within the Shire - including more affordable housing for key workers, housing for seniors and older persons, and housing for young persons and couples; .
2. Is well located in relation to existing employment and services, reducing the reliance on car based transport.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.

Kind Regards

[Signature]

Sophie Moir

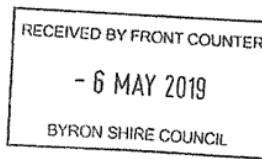
Property Manager



BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2



April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: Tim Patterson

and I live at: 6/22 Sunrise Blvd, Byron Bay

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity.
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4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed:

Date:

04/04/2019

BYRON SHIRE COUNCIL	
DOC NO:	.....
REC'D:	7 MAY 2019
FILE NO:	A77162
ASSIGNEE:	PLW/KSO

Scott, Noreen

From: Melinda Baldwin <mbaldwin279@hotmail.com>
Sent: Wednesday, 8 May 2019 2:51 PM
To: submissions
Subject: DA No. 10.2019.161.1 objection

8 May 2019

General Manager

Mr Mark Arnold

DA No. 10.2019.161.1

23 Lismore Bay Road, BANGALOW NSW 2479

Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
- The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Heritage Conservation Area.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaringly inconsistent in terms of bulk, scale and finishes.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- Listed heritage items in the immediate area include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
- Setbacks of only 1.5m will impose an excessive visual impact on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building.

- The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
- Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.
- Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- Excessive impervious areas will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.
- Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Dr Melinda Baldwin
17 Thomas St
Bangalow

Scott, Noreen

From: Jan Barham <janbarham@bigpond.com>
Sent: Wednesday, 8 May 2019 3:09 PM
To: submissions
Subject: SUBMISSION :DA No. 10.2019.161.1 23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

General Manager

Mr Mark Arnold

6 May, 2019

DA No. 10.2019.161.1

23 Lismore Bay Road, BANGALOW NSW 2479 - Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

I write to object to the above proposal.

The Bangalow Heritage Area is of great importance and this development would compromise the integrity of the heritage values in a Bangalow Heritage Conservation Area.

Recent consultations with the Bangalow community have reiterated the commitment to maintaining and protecting the heritage values and the small, low scale character of the village and it's surrounds

I do not support affordable housing concessions being applied to heritage conservation areas.

I strongly object to the application for the following reasons

1. Heritage - the DA does not conform to the heritage provisions of the DCP in line with the status of a Heritage Conservation Area and is an incompatible and unacceptable proposal.
2. Scale -the scale of the proposal is out of character with the single storey Federation houses constructed of timber and featuring corrugated iron roofs.
3. Bulk, scale and design of the proposal is inconsistent with the Heritage Conservation status and the DCP and incompatible with the long held community values for the character of Bangalow
4. Breach of DCP in relation to set backs to adjoining properties
5. Visual impact - the inconsistent character, size, scale and finishes of the proposal are out of character with the locality
6. Breach of height limit for the area
7. Loss of privacy for adjoining properties
8. Breach of the LEP in relation to the Floor Space Ratio
9. Potential for overshadowing but it is not clear in the application
10. Potential for noise impacts
11. Lack of solar access
12. Lack of landscape plans with a potential breach of DCP provisions
13. Stormwater impacts due to the lack of permeable surfaces and impact on Byron Creek
14. Access issues for seniors and people with disability are not sufficient

15. Parking constraints in relation to size and access, particularly for senior/disabled and an insufficient number of car parks in an already busy area

regards
Jan Barham

6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

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- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the additional **need to satisfy heritage compatibility** conditions as the project site is **within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
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- **Setbacks of only 1.5m will impose an excessive visual impact** on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building very close to their boundary fence.
- The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.
- **Overlooking** will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also **invades the privacy of other adjoining properties**. A drainage easement on one common boundary prevents screening.
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Signature: 

Date: 8/5/19

Name: John McIntosh

PO Box 446
Bangalow 2479

OBJECTION TO DA NO. 10.2019.161.1

23 LISMORE RD BANGALOW

The General Manager
Byron Shire Council

Objection to Development Application No. 10.2019.161.1.

This letter is a submission in opposition to the proposed development at
23 Lismore Road Bangalow.

The proposal appears to be a low cost development of poor design offering a very poor level of amenity for its future inhabitants:

- Very poor natural light particularly to the 2-bedroom units.
- Poor solar access
- Lack of car parking
- Small private outdoor space
- No communal outdoor space

The bulk and scale of the development is not in keeping with the context of the heritage conservation area of Bangalow. The buildings appear to be crammed onto the site incorporating setbacks that do not enable the buildings to achieve adherence to the height plane. This over development will adversely affect the neighbouring properties:

- Over shadowing.
- Loss of visual privacy
- Increase in acoustic levels
- Increase in traffic/ loss of available on-street parking

The proposal submitted a Seniors Living Urban Design Guidelines for Infill Development assessment. The proposal defies many guidelines of the document:

- (1.01,1.02,1.03) The proposal does not adhere to the performance criteria in regards to Bulk and Scale, Setbacks and height plane, nor the impact of privacy and overshadowing on neighbouring properties.
- (1.04) A Site Analysis plan was not submitted
- (2.15) There is no provision of Communal Outdoor Space
- (3.01) The site planning and design does not sympathise with the building and existing streetscape patterns
- (3.03) The building design does not break up the massing nor does it articulate the building façade
- (3.04) the building design does not allow breaks in the rows of attached dwellings
- (3.08) the building does not break down the bulk and scale by breaking down the roof into smaller roof elements.
- (4.13) The proposal does pose loss of privacy by overlooking onto adjoining neighbours properties.
- (4.16) Central courtyards have not been provided; Courtyards would greatly enhance the amenity by gaining solar access and natural light into what will be artificially lit rooms and corridors.
- (5.01) The proposal does not maximise solar access

OBJECTION TO DA NO. 10.2019.161.1

23 LISMORE RD BANGALOW

Further to the inadequacies of the proposal cited above, the studio units also propose bedrooms that are little more than the width of a double bed. This poses a very low level of amenity and is a testament to the overdevelopment of the site.

Whilst the number of units appropriated for Affordable Housing is under the number requiring a Social Impact Assessment by DCP 2014 Chapter B12, the appropriateness of the proposal should be examined. The DCP outlines issues such as the development's proximity to industry and public transport. Bangalow provides very little opportunity for workers and limited means of public transport to centres of industry. The lack of on-site carparking in the proposal further diminishes the appropriateness of the development as affordable housing.

Bangalow has undergone a major increase in housing with no increase in public amenity or infrastructure. A poorly designed medium density proposal increasing the population of the town should not be approved. The proposal also represents a significant development for Bangalow. Most Councils require that a significant development to be assessed by an Urban Design Panel, this proposal should be subject to such an assessment.

The following addresses the proposal in the context of the LEP.

1. BYRON LOCAL ENVIRONMENTAL PLAN 2014

Height of Buildings

The proposal a the grouping of three two-storey buildings within the Bangalow Heritage Conservation zone.

The LEP states:

4.3 Height of buildings

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

- (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.*

The proposal does not meet the Clause 4.3 objectives for the following reasons:

- The building is in breach of the height plane. This will affect neighbouring properties in regards to over-shadowing.
- The existing streetscape is made up of dwellings that are single-storey. Beyond the immediate context where there are double-storey dwellings where the site falls to permit single-storey at the rear of the property and double at the front. The subject site is relatively flat and the double storey and high roof line will make it very prominent. This is out of character of the immediate context.
- The proposal will involve a loss of privacy to the adjoining dwellings. In particular with the room arrangement of the bedrooms facing the houses at No.19 Lismore Rd.

OBJECTION TO DA NO. 10.2019.161.1

23 LISMORE RD BANGALOW

Heritage Conservation Area

The subject site, is in the Bangalow Heritage Conservation Area.

The LEP states:

5.10 Heritage conservation

(1) **Objectives** The objectives of this clause are as follows:

(b) to conserve the heritage significance of heritage conservation areas, including associated fabric, settings and views,

(4) **Effect of proposed development on heritage significance** The consent authority must, before granting consent under this clause in respect of ... heritage conservation area, consider the effect of the proposed development on the heritage significance of area concerned

(5) **Heritage assessment** The consent authority may, before granting consent to any development:

(b) on land that is within a heritage conservation area, ... require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage conservation area concerned

6) **Heritage conservation management plans** The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

The proposal does not comply with the objectives of LEP 5.10 because it fails to conserve the significance of the heritage conservation area and, significantly and adversely affects the associated fabric, settings, streetscape and heritage significance of the surrounding area, for the following reasons:

Effect on Heritage Significance of Heritage Conservation Area

- The bulk and scale of the proposal is not in keeping with the context of the locality or the heritage conservation area. The proposal is in breach of the height parameters of the LEP
- The appearance of the proposed buildings denigrates the heritage appearance of the streetscape and the heritage character of the area
- The houses along Thomas Street are all single storey dwellings and the double storey proposal will be an anomaly.

CONCLUSION

The proposal does not comply with the LEP, the DCP and the principals and objectives of the Bangalow Heritage Conservation Area.

The proposal is poorly designed offering a very poor level of amenity for its future inhabitants. The bulk and scale and inappropriateness of the development will result in loss of amenity to the neighbouring properties and the local context in general.

For these reasons, I submit that Council should decline to grant consent to the proposed development.

Duncan Sproul
3 Thomas Street Bangalow

Scott, Noreen

From: Gillian Reffell <ggmk@optusnet.com.au>
Sent: Wednesday, 8 May 2019 3:54 PM
To: council
Subject: Submission on DA 10.2019.161.1 -23 Lismore Rd, Bangalow

10.2019.161.1	Development Application	05/04/2019	23 Lismore Rd, B 59 Lismore Rd, B Multi Dwelling H
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I wish to make a submission concerning the above DA.

Before I start I would like to point out that it was not possible to make the submission on line because the map did not have the DA on it and so no automatic form was available. I hope this has not dissuaded people from pursuing their interest in making a submission due to the difficulty!

This is an objection.

I think the proposal is way too dense for the surrounding residential area - indeed anywhere in Bangalow! It will have a negative impact on the heritage aspects of the immediate surrounds - which is a Heritage Conservation Area. It will also have a negative impact on the surrounding neighbours amenity, privacy and continued quality of life. It will undermine Bangalow's widely admired village character.

17 dwellings crammed onto this site will be extreme over development. It will set an unnecessary and undesirable precedent for Bangalow.

Yes Bangalow might need affordable housing but that is not a reason to over develop and propose housing of a low quality of life due to living on top of one another and exploit as many loop holes (eg parking) as can be found to maximise speculative development.

How is it that such detailed assessment and comprehensive requirements could be made for the restoration of the adjacent heritage residence at 15 Thomas Street which adjoins this development if the Council is going to allow such a ill fitting monstrosity next door! To do so would be grossly unfair to the owner of 15 Thomas St!

The FSR is way over the top! .75:1 proposed while the LEP limit is .5:1. This LEP limit should not be trashed just because the developer has clawed together every little loophole that the State Government has handed out to developers as a result of pressure in city areas. It is not appropriate for Bangalow.

The merits of this DA are few and the Council must come to this conclusion!

Yours faithfully
 Gillian Reffell
 Owner 88 Byron St, Bangalow.

General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

7TH May 2019

Re: D.A. No. 10.2019.161.1 at Lot A D.P. 376877 &
Lot 2 D.P.1214341 Lismore Road Bangalow
Multi Dwelling Housing Comprising of 17 Dwellings

We object to the above proposal for the following reasons:-

The applicant has a disregard to a number of requirements that council has set for this type of development.

The site is in the Heritage Precinct of Bangalow. The applicant has shown little or no desire to comply with this requirement. The building has no real heritage appearance. I am not sure whether council still refers proposed developments in a heritage precinct to a heritage architect. This proposal should be forwarded to a heritage architect for comment.

There are also a number of areas where there are non-compliance issues with the councils D.C.P. Some being the building height plane overshadowing, character compatibility, privacy, setbacks etc.

On site car parking numbers seem to be inadequate – 14 spaces, 17 units??

No allowance for visitor numbers. Car parking spillage will end up being on Lismore Road.

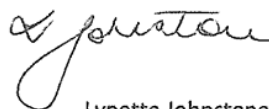
This is a major road between Bangalow and Lismore and is very busy with many truck movements. Any development on this site should address the issue of adequate on-site car parking. The car parking proposed is inadequate for the volume of cars this development will generate.

The applicant and the type of development proposed appears to want everything and give nothing.

This D.A. application should be refused. It is an overdevelopment of this site and not in keeping with the visual quality of the Bangalow Heritage Precinct.



Paul Johnstone
288 Old Byron Bay Road
NEWRYBAR NSW 2479



Lynette Johnstone
288 Old Byron Bay Road
NEWRYBAR NSW 2479

Regarding: DA 23 Lismore Rd Bangalow

Development Application (10.2019.161.1)

To whom it may concern

I am strongly opposed to the proposed development at 23 Lismore Road. It pretends to be based on a concern for affordable housing and community housing but is actually a high-density apartment development aimed at maximum rental income at the expense of local amenity. Affordable housing concessions are used to justify a 50% increase of the FSR (.75) without any statement confirming relative rental rates based on Bangalow median rental and income levels. Given the track record of this developer elsewhere, the rentals will be unaffordable for those on low incomes, especially in an expensive town like Bangalow. The claims to be affordable housing are bogus. Therefore, the applicant is not entitled to apply planning concessions that are restricted to listed community housing providers. unacceptable in a flood prone area. In addition, The DA does not address the objectives of seniors living policy; and provisions for disabled access are inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units

The proposed development is totally outside the character and heritage values of its environs. The brick construction materials and style of buildings are in stark contrast to the heritage character and requirements of surrounding buildings. It is of excessive density and too close proximity to surrounding dwellings in the Bangalow Conservation Area. The adjoining house at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations. Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).

All surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of its brick structure and double-story construction.

Very small setbacks as little as 1.5m will impose an excessive visual impact on adjoining properties. Their residents at 15 Thomas St would face the red brick walls of a 2-storey building. The building envelope exceeds elevation height planes in several areas, overlooking and thereby invading the privacy of 15 Thomas St (the rear block of the development overlooks a private outdoor area and swimming pool). Overlooking from upper balconies, living areas and windows will significantly degrade the privacy of adjoining properties. A drainage easement on one common boundary prevents effective screening. Overshadowing has not been shown and is likely to be significant. Noise buffers between units and adjacent houses are not described.

Solar access is not available to all units therefore they will be dark and likely mouldy in our subtropical climate. There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site. Excessive concrete surface areas are very problematic in a flood prone area.

Car parking is a major hazard in this location. Very limited on-site parking of 14 spaces is woefully inadequate. Lismore Rd has no designated parking areas and can have traffic rates of 1000 cars per hour. There is no-where safe to park on the Lismore Road and traffic entering the proposed development from both directions on Lismore Road will create a safety hazard. This will further complicate the difficulties of navigating safe entry onto Lismore road from Robinson Road.

Yours faithfully

Dr Chris Stevens

25 Thomas Street Bangalow.,

Scott, Noreen

From: Diana Yee <di@diyeedirector.com>
Sent: Thursday, 9 May 2019 3:56 PM
To: submissions
Subject: 23 Lismore Rd - Objection

re: DA 10.2019.161.1, Lot A DP 376877, Lot 2 DP 1214341

Dear Council

As a Bangalow resident, I would like to object to the planned development of a block of flats at 23 Lismore Rd.

The design & plans for small single unit dwellings, some without car parks, in the busy main road into Bangalow, is visually and fundamentally inappropriate for this heritage area.

It seems that they are disguised as affordable housing, when in fact we are all aware that the developers intend to have them rented for greater returns that most single average wage earners could not afford, and future sales.

The impact of owners cars parked out on busy Lismore Rd right up to Robinson St would create a lot of traffic problems in this already busy area and add pressure to this small town community.

This style of high density living is not in character with the town, but I see it is happening already in the newer subdivisions being developed around me right now in The Meadows.

Having built myself recently, I complied to the specific restrictions and rules with respect to maintaining the heritage with integrity when I applied for my DA, using innovative design that respected the rulings and sat nicely in the landscape. I expected the same of my neighbours and other new constructions in my town.

I hope you will consider my objection and ask the developers to reconsider the impact of their plans and resubmit with alterations that reflect the character of this community.

Kind regards
Diana Yee

30 Charlotte St
Bangalow

diyee
DIRECTOR

di@diyeedirector.com
www.diyeedirector.com
www.vimeo.com/diyee
skypename: dianayee
m: +61 418112958

Scott, Noreen

From: Straun Scott <strauns@icloud.com>
Sent: Wednesday, 8 May 2019 12:41 PM
To: submissions
Subject: Fwd: Submission for DA @ 23 Lismore Rd, Bangalow

Impact of proposed DA @ 23 Lismore Road, Bangalow, NSW, 2479.

In addition to my earlier submission which covered issues of legislative / planning compliance & community issues, I wish to add to / emphasise the following points:

The development is inappropriate for the community because:

- Our **privacy** will be unacceptably impacted. Numerous parts of the proposed development will look straight into ours & other neighbours backyard & bedrooms.
- The **noise** levels currently experienced at our house & the other neighbours will be exponentially amplified by 17 dwellings, the people in them as well as their associated cars.
- The **pollution** from the 17 dwelling's cars driving in & out of the property will be flowing into the neighbours windows.
- The **size, scale & finishes** of the development are not in keeping with the Bangalow Village Plan or existing buildings.
- The plans submitted **falsely detail** our house at 25B Lismore Road, as a brick & tile dwelling which is **incredibly misleading** to the assessors.
- It will significantly **overshadow** property, blocking our morning sun - which is a key feature of the property (see photos attached to this e-mail).
- The **design is incongruent** with the houses it is surrounded by - including three that are either heritage listed or were heavily policed to ensure that they were heritage compliant by external heritage consultants called in by local council.

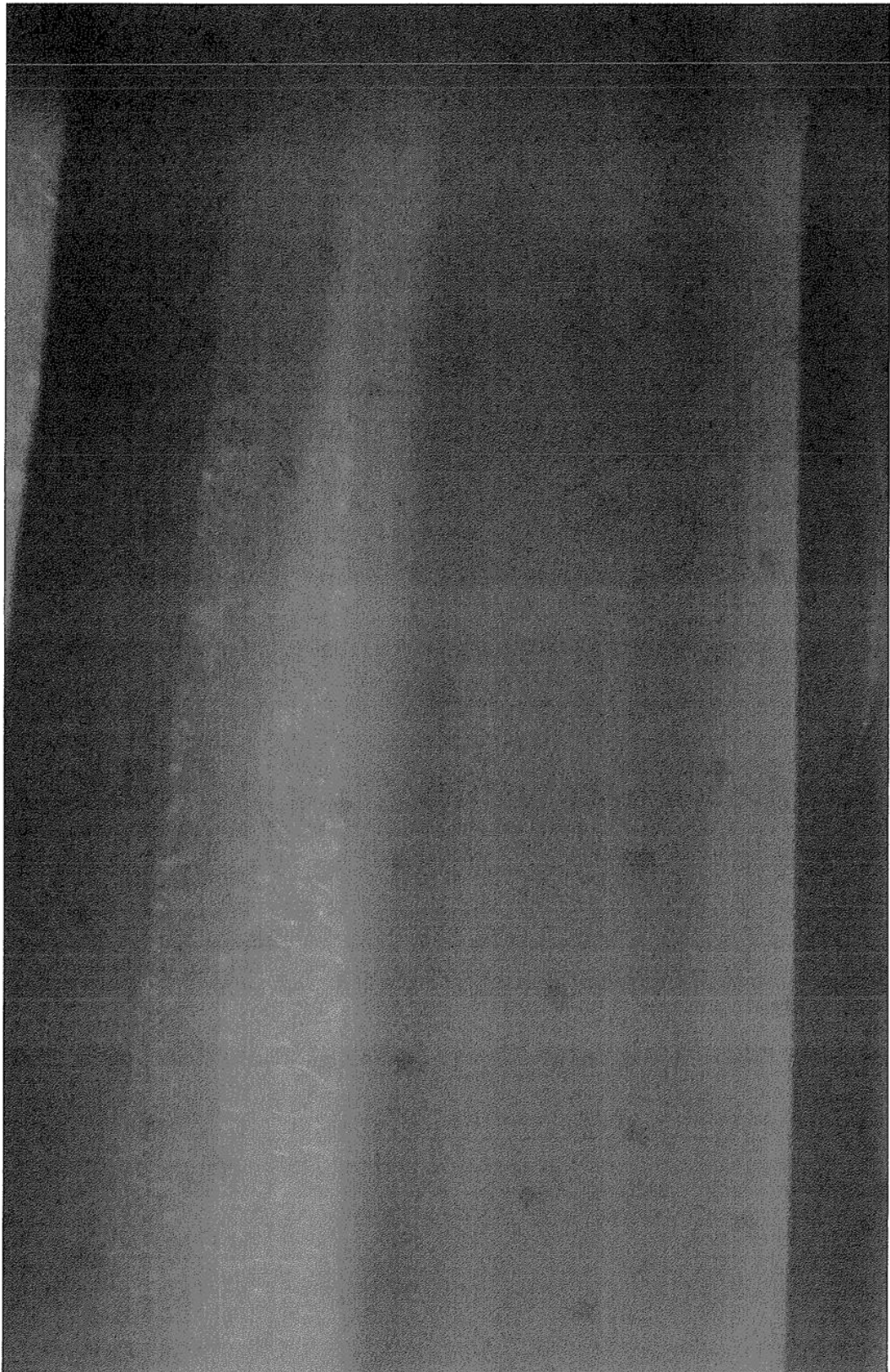
For the above reasons I submit that the **amenity of our home** will be unacceptably & significantly impacted by this proposed development. Furthermore, it will cause a loss of character not only for the Bangalow Village (which is highly prized for its current image & housing design), but a loss of real estate value for the immediate neighbours.

In relation to the developer, I merely highlight that the company name, in which the submission is made (Lismore Venture Pty. Ltd.), does not appear to be registered on the Australian Business Register website.

Kind Regards,
Straun Scott.

Begin forwarded message:

From: Straun Scott <strauns@icloud.com>
Subject: Submission for DA @ 23 Lismore Rd, Bangalow
Date: 8 May 2019 at 11:15:36 am AEST
To: Straun Scott <strauns@icloud.com>



















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To Whom It May Concern

I am writing to oppose the DA 10.2019.161.1 on the basis that it is not compliant with many of the relevant Council policies:

The proposal is for a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot within the Bangalow Conservation/Heritage Precinct which is zoned Low Density Residential.

Consisting of 8 x two bedroom dwellings, 4 x one bedroom dwellings & 5 studios with a combined floor space of 1,112sqm on a site totalling 2,330sqm, the dwellings are contained within 3 x two story blocks where the width of the cheapest 6 units is a slender 1.8m. It is important to note that the Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5, a significant breach of planning requirements.

Planning concessions for affordable and senior housing have been incorrectly & inappropriately invoked to increase building density and provide fewer car parking spaces. These concessions are being misused to justify the 50% FSR increase without any statement confirming relative rental rates based on Bangalow median rental and income levels. This results in a compressed group of units with sub-standard living conditions that are completely at odds with the surrounding low density residential character.

The development proposal in no way embraces the aspirations, ideals or ethos of the Bangalow community's vision for the future as set out in the Bangalow Village Plan.

No communal open space has been provided for within the proposed development & the dwellings do not receive the required solar access as prescribed by Council policy. Overshadowing both within the development & of surrounding properties has not been shown and is likely to be significant. Shadow diagrams are required to confirm whether this is satisfactory.

The building envelope exceeds permitted elevation height planes in several areas, with at least one protrusion being very significant. Setbacks include a 1.5m minimum that will impose an excessive visual impact on adjoining properties.

Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool of the property. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties.

Only 14 car spaces have been provided for 17 dwellings, vehicle circulation & parking is extremely challenging with awkward spaces that are narrow and difficult to access. The driveways are not positioned so as to form the required buffer between existing adjacent dwellings as prescribed under "infill design compliance requirements".

The single disabled car park noted on plans is no larger than others and so does not qualify for disabled use. The limited on-site parking cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.

The plans are inconsistent with respect to the provision of garbage areas and do not consider the impact of these on adjoining neighbours. These areas also reduce the limited space available for landscaping yet there are no landscaping plans showing how the required minimum area of 35 sqm per dwelling will be allocated and landscaped on the site.

Inappropriate developments such as this in our community & heritage precincts are not acceptable, the negative impact on the heritage character of the surrounding area and poor social outcomes affects everyone in the locality & reduces the appeal of the community for locals & tourists alike. I would like to highlight the fact that the tourism appeal of the community lies largely in its heritage character.

Consent is subject to a local character test and the proposed building design is not compatible with the surrounding residential character which consists primarily of single storey, federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaringly inconsistent in terms of bulk and finish. Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).

There is an obvious need for affordable low income & senior housing in Bangalow but it should be done in a manner which is consistent with local character and creates pleasant liveable spaces that can be enjoyed by low and middle income earners. The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate.

Regards
Peter Gardiner
0410591388

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

2. Signature [Signature] Date 6.4.19.
Name Nick Milne.
3. Signature [Signature] Date 6-4-19
Name Michael Simmons
Signature _____ Date _____
4. Name Jerry Milne
Signature [Signature] Date 6.4.19
Name _____
5. Signature [Signature] Date 6.4.19
Name J. READING
6. Signature [Signature] Date 6.5.19.
7. Name Viv Fontin
Signature [Signature] Date 6.5.19
8. Name Jasmine Rudgley
Signature [Signature] Date 6.5.19
9. Name Rebecca Sargeant
Signature [Signature] Date 6/5/19.
10. Name R. Rosevear.
Signature [Signature] Date 6.5.19
11. Name JANICE MAPLE
Signature [Signature] Date 8/5/19
12. Name Kate Stead
Signature [Signature] Date 8.5.19
13. Name Donna Jarrett

I confirm that the above signatories are all Bangalow Residents and have read and agree with the ideas put forward in the objection.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

I confirm the signatories below
have read the submission and
are all Bangalow residents

- 14 Signature S Rudgeley Date 6/5/19
Name Sharon Rudgeley
- 15 Signature [Signature] Date 6/5/19
Name [Name]
- 16 Signature [Signature] Date 7/5/19
Name ANNE HESKING
- 17 Signature [Signature] Date 7/5/19
Name Margaret Madeline HAYS
- 18 Signature [Signature] Date 7/5/19
Name ROBYN MORE
- 19 Signature [Signature] Date 7/5/19
Name Sean Daly
- 20 Signature [Signature] Date 8/5/19
Name URSULA PLUNKETT
- 21 Signature [Signature] Date 8/5/19
Name JOHN PLUNKETT
- 22 Signature [Signature] Date 8/5/19
Name Leeza Campbell
- 24 Signature [Signature] Date 8/5/19
Name RICHARD MORGAN
- Signature _____ Date _____
Name _____
- Signature _____ Date _____
Name _____
- Signature _____ Date _____
Name _____
- Signature _____ Date _____
Name _____
- Signature _____ Date _____
Name _____
- Signature _____ Date _____
Name _____

5 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
- The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Conservation Area.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk, scale and finishes.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
- Setbacks of only 1.5m will impose an excessive visual impact on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building.
- The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
- Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.
- Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50%

increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Dominant concrete surface areas limit landscaping opportunities for communal spaces.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- Excessive hard surface areas will exacerbate stormwater runoff to nearby Byron Creek.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
- Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.

While we acknowledge the need for affordable housing this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, which have been directed by NSW State Planning to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Signature: 
Name: Joanne Miller

Date: 6.5.19

Scott, Noreen

From: no-reply-da-tracking@byron.nsw.gov.au
Sent: Tuesday, 7 May 2019 6:41 PM
To: submissions
Subject: 10.2019.161.1_Submission and Acknowledgement_Oppose_bbarkla@gmail.com - Bronwyn Barkla

Description: Multi Dwelling Housing Comprising Seventeen (17) Dwellings

Properties: 23 Lismore Rd, Bangalow 2479 NSW (LOT: A DP: 376877)
59 Lismore Rd, Bangalow 2479 NSW (LOT: 2 DP: 1214341)

Council acknowledges receipt of your submission in relation to the above Development Application. Your participation in the assessment process is greatly appreciated.

The comments outlined in your submission will assist in Council's consideration of the matter. Council will inform you of its decision once the Development Application has been finally determined.

For your convenience Council's Application Tracker provides you the opportunity to follow the details and progress of applications online.

If you have any enquiries in relation to the application please contact Robert Van Iersel of Council's Planning and Environment Department on 02 6626 7000.

Summary of Submission details.

Name: Bronwyn Barkla
Address: 5 Meadows Close
Phone: 0401529806
Email: bbarkla@gmail.com
Submission: Oppose

Grounds For Objection or Support: I am concerned about the number of units and how the proposed dwellings will not be in line with the heritage nature of the village. The proposed dwellings will change the look and feel of our community. Bangalow is known and loved for its village feel which encompasses single family dwellings with a heritage look. This develop does not embody what our village stands for. Tourists come here because of the look and feel of the place. This medium density housing development will take away from that and does not match the surrounding dwellings at all. Families have bought in this area because they expected the housing would remain as single family dwellings with at the most a granny flat/studio attached. This unit will substantially increase the noise and movement of vehicles in the area.

Yours faithfully,
Byron Shire Council

70 Station Street
PO Box 219
Mullumbimby NSW 2482
02 6626 7000
Web <https://www.byron.nsw.gov.au/>
All formal correspondence to submissions@byron.nsw.gov.au

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The General Manager: Mr Mark Arnold

7th May 2019

DA No: 10.2019.161.1

23 Lismore Rd, BANGALOW NSW 2479

Multi-Dwelling Housing comprising 17 (3x2 Storey) dwellings

OBJECTION:

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

MY NAME is ISOBEL SINCLAIR. I am retired and live at 15 THOMAS ST BANGALOW.

I share a 38.5m boundary with the proposed development. My cottage at 15 THOMAS ST is well over 100yrs old & I was required to comply with heritage guidelines for my recent renovations. These renovations were overseen by Deborah Wray, a Heritage Architect from Grafton.

Bangalow has been my home town for the last 30yrs. My family comprises several generations who come together at my cottage to share family occasions.

I am and have always been passionate about Bangalow and preserving our Heritage Character. Thomas St is lined with many lovely 100yr old homes and sits within the 'Heritage Precinct'. The proposed development will in effect be a continuation of line of sight of the Thomas St cottages and Lismore Rd cottages and is sited in our heritage conservation area.

1: This DA is subject to a local character test and the proposed buildings are dramatically incompatible with the surrounding heritage residential character.

2: The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Heritage Conservation Area.

The 'STATEMENT OF HERITAGE IMPACT' by URBIS PTY LTD & commissioned by the developers STATES:

"The Proposal is designed in a contemporary manner and does not seek to imitate or replicate any architectural style of buildings/elements within Bangalow".

"The form, use of materials and finishes are recognisably modern"

3: Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaringly inconsistent in terms of bulk, scale and finishes.

4: **Overlooking:** The impact of this development on my peace and quiet, my private spaces and enjoyment of my home & environment would be catastrophic. Overlooking from upper balconies living areas and windows also invades the privacy of other adjoining neighbours.

5: **Setbacks of only 1.5m** will have an excessive visual impact on adjoining properties. My cottage at 15 THOMAS ST will face the red brick walls of 2storey buildings with **no possibility of screening** and impact light and winter sun dramatically. A drainage easement on one common boundary also prevents screening.

6: The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.

7: Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

8: Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.

9: The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

10: Noise buffers between units and adjacent houses are not explained.

11: Solar access is not available to all units.

12: There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.

13: Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.

14: Excessive impervious areas will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.

15: The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.

16: The DA **does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.

While I do acknowledge the need for affordable housing, it should be done in a location & manner that is suitable and consistent with local character. ***This development application adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.***

The overwhelming consensus in the Bangalow community over the last few years is to protect and maintain the small rural village feel, its unique heritage character and values and amenity of the village.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

THIS DA HAS A COMPLETE DISREGARD FOR THESE OBJECTIVES AND SHOULD BE REJECTED.

Name: _____ Signature: _____ Date: _____

Scott, Noreen

From: Sue Taylor <taylor.sue@gmail.com>
Sent: Tuesday, 7 May 2019 7:25 PM
To: submissions
Subject: Submission of OBJECTION

OBJECTION
DA 2019.161.23

Mr Mark Arnold
General Manager
Byron Shire Council

Please accept my OBJECTION to the DA based on issues that follow:

- The site falls within the **Bangalow Heritage Conservation Area** - and is in close proximity - even bordering some of Bangalow's heritage homes and buildings. It is grossly out of character to the location.
- The **density** and number of residents proposed for this site is **out of context** to the setting, the streetscape and to the Heritage Conservation Area..
- The development is **contrary to the Bangalow village character** - as identified as part of the Guidance Group process.
- The development would have a **negative impact on the privacy**, amenity and property values of small, single story homes which are in close proximity to the site.
- The **visual amenity and the impact of noise** of a development of this size and density would impact negatively on the neighbourhood in which it is proposed, creating conflict for residents within the complex and in the surrounding community.
- **The scale** of the development is unacceptable.
- **The height and bulk** of the buildings are **not in keeping** with expectations for development within the Bangalow Heritage Conservation Area.
- Bangalow residents have come to expect higher standards when it comes to development within the town. Bangalow is a popular town with visitors (tourists) and much of the popularity of the **town is dependent on the protection and preservation** of its buildings, the Heritage Conservation Area and the **character** and low key charm of the town. This size of this development would have a negative impact on that which attracts tourists to Bangalow. It is proposed for a very prominent site at the gateway into town.
- This development would not be in the public interest.

I strongly object to DA 2019.161.23.
I ask council to refuse the proposal.

Sincerely,
Sue Taylor
PO Box 429
Bangalow 2479

6 May 2019

Scott, Noreen

From: purse dave <pursedave@hotmail.com>
Sent: Tuesday, 7 May 2019 9:39 PM
To: submissions
Cc: council; michael.lyon@cr.byron.nsw.gov.au; cate.coorey@cr.byron.nsw.gov.au; basil.cameron@cr.byron.nsw.gov.au; alan.hunter@cr.byron.nsw.gov.au; jan.hackett@cr.byron.nsw.gov.au
Subject: DA 10.2019.161.1 Multi Dwelling Housing Seventen Dwellings, 23 Lismore Road, Bangalow.

Dear Sir/Madam,

I wish to express my concerns on the above development application, proposed for the Bangalow Conservation Area. Below are some of my points of objection on this totally inappropriate proposal.

- The proposal in no way fits councils own Bangalow Village draft plan released only last year, in particular the following points stand out.
- 1.1.1, 2.1.1, 2.1.2, 2.3.1, 4.2, 6.2.
- The proposal is for affordable housing, these units will not be good value for money.
- The developer has constructed several similar developments around the Shire and I know from personal experience that they are practically unliveable due to a number of factors.
- They are too small, too densely packed with no noise buffer between neighbouring units, overpriced and have no external private areas to enjoy.
- The developers, other similar projects are constantly advertised for rent (a quick internet search proves this) this leads to a very transient population. I personally don't think this is good for Bangalow or any other village in the area. The council should focus on building communities, rather than allowing this kind of development.
- Can the developers provide tenant turn over figures for their other projects? This would prove that rather than creating a community these type of developments create a very transient neighbourhood.
- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk and finish.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).

Hopefully the council can look at the bigger picture for Bangalow and realise the towns future is not best served by this type of development. Bangalow is a special place, it has retained its heritage character through many challenges over the years and I stand with my community in trying to keep it that way. Development is key to the villages ongoing success, but this type of development will only be to Bangalows detriment.

Yours Sincerely,

David Purse.
 50 Charlotte Street,
 Bangalow.

letter

Byron Shire Council
PO Box 219

Mullumbimby
NSW 2482



beach architects

24 Charlotte St
Bangalow NSW 2479
dan@beacharchitects.com.au
0410746249

abn 76 868478856

7.5.19

Attn: Mr R G Van Iersel

Dear Mr Van Iersel,

re: DA 10.2019.161.1, Lot A DP 376877, Lot 2 DP 1214341

I support all appropriate development in the Byron Shire, but this proposal is not appropriate or complying development, and should not be approved by Council in its current form for the following reasons:

1. Byron Shire Council DCP 2010 Chapter 7 Medium Density and Residential flat buildings.

This Chapter states very clearly that the minimum street frontage for a medium density development is 25m in all Shire areas outside Byron Bay and Suffolk Park.

The site that is the subject of this DA has a street frontage that is 22.555m wide and therefore is well under the minimum requirement. In addition, this particular site has 13.5m of this frontage taken up by a Telstra Easement making its effective street frontage about 9.5m which is grossly non complying with the minimum street frontage.

2. Byron Shire Council DCP 2014 E2.4 Development outside the Conservation Area.

E2.4.2 Infill Development. The proposal does not demonstrate consistency with E2.2.1. The proposal is not compatible with adjacent buildings and does not contribute to the heritage value of Bangalow.

3. Byron Shire Council DCP 2010 Chapter 12 Bangalow, Section 2, 2.2 Specific Objectives.

a) The proposal does not maintain and enhance unique character of Bangalow as a rural township. Blocks of units are not part of this unique character.

b) The proposal does not provide innovative cluster and medium density housing. This development is an old 'brick block of units' typology. The kind that have been demolished in cities all over Australia in recent decades, because of bad site planning, lack of privacy and individuality, car domination, and no sense of community or shared spaces.

3.4 and 4.3. The site is very close to the edge of heritage precinct B, and it does not compliment this precinct and has not been designed with this development control plan in mind. This phrase 'heritage character' encompasses many aspects of the built fabric and its visual appearance like construction materials, roof pitches, solid-to-void ratio of facades. But also, the accommodation types proposed being 2.8m

wide studio terrace housing in groups of 5, and 3.8m wide terrace housing in groups of 8. These accommodation types are not consistent with the relaxed country feel of this rural town. The fact that these very skinny, small and crowded units are proposed right on the edge of open farm land is absurd. The bulk and scale and density of this development is inconsistent with neighbouring dwellings and the open farm areas.

4. Building Height Plane.

The proposal breaks the Building Height Plane AT R4, T1 and T8. The proposal does not comply. There are no site plan markers to show where the site sections are taken from. The elevations are rendered images and should at least provide hard lines in conjunction with render images for proper scrutiny.

This non-compliance with building height plan seriously reduces sun access to neighbouring houses and also reduces their privacy and amenity. A minimum 3m side boundary setback should be imposed to address these issues.

5. Byron Shire Council DCP 2014 D1.6.1 and DCP 2010 C7.3 Private open Space Courtyards.

Performance Criteria 4. Courtyards must provide a maximum of year-round sunlight. The Terraces T1-T8 all have courtyards on the south of a 2-storey terrace building, so they are in shade through much of the year and do not. Meet this performance criteria. In addition, the courtyards of terraces T1-T3 are bisected by a retaining wall making them non-compliant.

Prescriptive Measures

1. Only 3 out of 17 units have Private Open Space Courtyards that comply with the 30m² minimum, so the overall scheme is non-compliant with this clause.

In addition, these POSC's are lined up at ground floor level and are fully visible from many of the neighbouring unit balconies above. For example, the POSC of T4 would be clearly visible from T3 and T5 and partially from T3 and T6. Clearly, they are not private and the design is non-compliant.

6. Solar Access.

The applicants solar diagram table shows that 7 out of the 17 proposed units get 0 hours of winter sun. This is grossly non-compliant.

7. Byron Shire Council DCP 2010 Chapter 7.1 Density Control.

The applicant has removed the Telstra easement area for the purposes of reducing the FSR. For density control the same number of 1998m² should be used. The maximum number of units permissible on the site on this basis is:

6 x Large (over 85m²), or another combination of less large units and some small and medium units. This development has 8 x large and 9 x small units which is not compliant.

8. Byron Shire Council DCP 2014 D1.6.1 Residential Flat Buildings.

A Context and Site Analysis Plan is required as per Part A13.1.1. There is no such plan within this application. Had the applicant gone through this stage they may have designed a much better proposal.

9. Byron Shire Council DCP 2010 C7.5 Landscaped Area.

The application is grossly non-compliant with the min. landscaped areas per unit.

10. Byron Shire Council DCP 2010 C1 Part G Carparking.

Table G2.1 prescribes that 1 space per unit must be covered. 9 of the proposed units do not have any covered car parking.

Once a disabled carpark is shown with a shared space the car spaces provided drops from 14 to 13. The number of carparks provided is well under the total of 32 spaces required to be compliant (25 spaces required for the units and the 7 for visitors).

11. Floor Space Ratio.

The subject land is zoned R2-Low Density with a permitted FSR maximum of 0.5:1. The developer does not automatically qualify for affordable housing concessions, they themselves state in their SEE that they are not a 'social housing provider'. They could seek these concessions, but the proposal would need an innovative site layout that created social and community minded outdoor spaces, and be compliant in all other ways, before the proposal could be considered for this concession. Also, the applicant clearly states that only the five studios are nominated as the 'affordable housing dwellings', therefore all the rest are required to comply with the normal planning controls. This proposal fails to do this with car parking for R1-4 and T1-8 and private outdoor courtyards for T1-8.

12. Cost of Works.

Within the estimated cost of works there are the following estimates:

Building construction	\$805k
Internal Services	\$450k
Internal Fitout	\$655k
Total	\$1.91mil

Total Floor area is quoted as 1112m²

This equates to \$1700/m² + gst. And does not include the cost of garage areas.

This is a very low figure for the year 2019 in Bangalow NSW. I suggest the applicant has tried to keep this development under the \$3mil mark. The applicant should be requested to provide a cost of works by a local Quantity Surveyor.

13. Traffic.

Traffic turning right both in and out of this development will be problematic and dangerous at peak hours, this has not been addressed by the applicant.

14. D1.10.6 Site Facilities

Prescriptive Measures

6. Car washing area has not been provided.

15. Byron Shire Council DCP 2014 B11: Planning for Crime Prevention.

This site planning creates a dead end which greatly reduces the safety of residents. Although under 20 residences, it would be reasonable for CPTED provisions to be designed into the layout, and appropriate reporting undertaken.

Conclusion

This proposal has attempted to use SEPP (Affordable Rental Housing) 2009 to increase the number of dwelling units and for greater rental returns and future sales. The application of this SEPP should not be used to gain approval for an otherwise sub-standard or non-compliant proposal.

Council should require the application to be resubmitted with modifications (or indeed a new scheme) so that it is complying. The applicant should consider a smaller collection of free-standing (variously sized, strata-titled) houses on this property. With innovative site planning and outdoor spaces the applicant could create an exemplary infill housing scheme. In its current form the proposal should be refused.

Yours faithfully,



Dan Connolly reg. n°: 6979
Beach Architects abn 76 868478856

Scott, Noreen

From: Dan Connolly <dan@beacharchitects.com.au>
Sent: Monday, 13 May 2019 9:48 AM
To: Van Iersel, Rob
Subject: 23 Lismore Road: further info

Hi Rob,

This email is a follow up to my email last week in objection to the development at 23 Lismore Road.

Please see attached some photos of a multi-residential development in Ballina. I would say from the brickwork these are late 70's or early 1980's.

What I'm interested to comment on is that this development (although it looks pretty daggy) is actually better designed than 23 Lismore road.

Observations on why this 40yo Ballina development is better than 23 Lismore Road:

- more space in between unit blocks
- each unit is larger
- more access to daylight throughout the unit
- garages for each unit + visitor parking
- in groups of 4 conjoined units, not 8. Meaning only 2 centralised units and 2 on the ends.
- more suitable location, very close to sports grounds and shops
- in keeping with the surrounding development.
- they address the street to match in with other single dwellings near by, same street setback
- this is not a battle-axe block of land but a regular block of land with a proper width street frontage.
- these buildings utilise the ends of the buildings with extra windows and balconies
- better safety with gate and easy to walk straight through if need be (no dead ends)

Now, I did not ever think I would be suggesting a development like this is better than something proposed in 2019...

I would hope that you and the planning team could consider this observation in your determination of this development.

Thanks







Kind Regards,
Dan Connolly
0410746249



www.beacharchitects.com.au

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

Byron Shire Council

7th May 2019

P O Box 210

Mullumbimby

PN: 45640
BYRON SHIRE COUNCIL
DOC NO:
RECD: 8 MAY 2019
FILE NO: A7169
ASSIGNEE: A. Wilson

Re Development proposal DA 10.2019. 161.1..... DA 23 Lismore Rd

Parcel no.'s 45640 & 267884

Our investment and choice of place to live will be adversely impacted by the proposed development.

Before purchase we made enquires through your council and were given comfort that this precinct was a heritage location and was immune to development of this type.

No recognition of your own Council's heritage guidelines. Our protest is supported by residents from general community

No traffic management infrastructure for the heavy traffic in Lismore Rd. Traffic coming and going from the development will turn an already dangerous procedure into an accident prone strip.

Totally inadequate parking on site, and Lismore Road is not compatible to any increase in parking.

Two story units for Seniors is a nonsense – older people do not climb stairs. Additionally, Seniors do not get in a car to go shopping and will be imprisoned into a noisy difficult situation.

The proposed development uses "affordable housing" as a marketing tag. In reality it is not affordable - it is cheap and ugly and does not "fit" in the town's future development.

William H Cox 70 Charlotte St Bangalow

Gary Seaman 72 Charlotte St

Melissa Morrissey 68 B Charlotte St

Paul Jarratt 68 A Charlotte St

Roger Green 70 A Charlotte St

[Handwritten signatures and initials over the list of names]

Scott, Noreen

From: Kiernyn Deutrom <ambassadors@shelterbox.org.au>
Sent: Wednesday, 8 May 2019 9:04 AM
To: submissions
Subject: Submission - DA 10.2019.161.1

DA - 10.2019.161.1

Development - Multi Dwelling Housing Comprising Seventeen (17) Dwellings

Property address - 23 Lismore Road and 59 Lismore Road, Bangalow

Grounds for submission - Objection

We have concerns regarding the proposed development at 23 Lismore Road Bangalow. We have noted in our area at The Meadows in Bangalow (particularly Charlotte Street) that differing DA decisions have been made by different council officers in relation to encroachment of the height plane, solar access, visual appeal, house character being conducive to Bangalow and privacy issues.

These different decisions, being made seemingly without consistency for each development, has caused ongoing tension and concern to neighbours living in this area, creating disputes and rifts, which has not been pleasant to live amongst.

The higher density of duplexes approved in this area (mainly by one developer on Charlotte Street) is causing ongoing traffic problems, obstruction of views with lots of cars parked on the street (both residents, visitors and tradespeople), inability to see children crossing the street due to obstruction, and increased noise.

Bangalow is renowned for it's village living and serenity but this town is fast becoming a high-density, noisy suburb as you'd find in any city.

The proposed dwelling at 23 Lismore Road Bangalow does not seem to comply with council regulations in that it does not offer all residents solar access, a car park space per household, adequate distance from neighbours and green space.

Being a relatively new resident I feel strongly that the long-term residents have worked hard to hold onto the village-feel in Bangalow. A multi-dwelling, supposedly affordable housing development would drastically change the style and character of the local area which I had assumed Byron Council would want to maintain.

I would strongly urge Council to not approve this development to ensure developers don't take over this town. Developers have a very big stronghold here on Charlotte Street in Bangalow and it has totally changed the feel and character of the street will soon be choked with noise, cars, and tenants.

Yours sincerely,
 Kiernyn Deutrom
 (Resident of Meadows Close, Bangalow)

Kiernyn Deutrom
 Volunteer Program Manager
 ShelterBox Australia

mob: 0400 273 624
ambassadors@shelterbox.org.au

www.shelterboxaustralia.org.au

Please note my normal working days are Monday, Tuesday and Wednesday



[Find out more about our Larapinta Trek in 2019 here](#)

Scott, Noreen

From: no-reply-da-tracking@byron.nsw.gov.au
Sent: Wednesday, 8 May 2019 9:10 AM
To: submissions
Subject: 10.2019.161.1_Submission and Acknowledgement_Oppose_brewsteratbay@hotmail.com
- Bruce Bernauer

Description: Multi Dwelling Housing Comprising Seventeen (17) Dwellings

Properties: 23 Lismore Rd, Bangalow 2479 NSW (LOT: A DP: 376877)
59 Lismore Rd, Bangalow 2479 NSW (LOT: 2 DP: 1214341)

Council acknowledges receipt of your submission in relation to the above Development Application. Your participation in the assessment process is greatly appreciated.

The comments outlined in your submission will assist in Council's consideration of the matter. Council will inform you of its decision once the Development Application has been finally determined.

For your convenience Council's Application Tracker provides you the opportunity to follow the details and progress of applications online.

If you have any enquiries in relation to the application please contact Robert Van Iersel of Council's Planning and Environment Department on 02 6626 7000.

Summary of Submission details.

Name: Bruce Bernauer
Address: 31 Leslie St Bangalow
Phone: 0421020826
EMail: brewsteratbay@hotmail.com
Submission: Oppose

Grounds For Objection or Support: We've had a DA hiding behind the name "Food Hub", then one pretending to be a "Koala Hospital", now we have a DA hiding behind the banner of "Affordable Housing". Are these people serious? Affordable housing? It looks more like dog kennels. Tiny little boxes. Totally out of character with the area. Inadequate parking in an area with little public transport, and on a road with limited kerbside parking. Just another money grab at the expense of the community.

Yours faithfully,
Byron Shire Council

70 Station Street
PO Box 219
Mullumbimby NSW 2482
02 6626 7000
Web <https://www.byron.nsw.gov.au/>
All formal correspondence to submissions@byron.nsw.gov.au

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email in error please notify Byron Shire Council immediately. Information transmitted via email may be subject to corruption by the process. Information contained in this email should not be relied upon where loss, damage or injury is possible. Verified information should be obtained in writing directly from the authorised Council officers.

Scott, Noreen

From: john.crabtree1@bigpond.com
Sent: Tuesday, 7 May 2019 12:27 PM
To: council
Subject: Submission for application (10.2019.161.1)

Dear BBC.

I'd like to make a formal objection to the DA listed above. It is a completely inappropriate development for that site for reasons too numerous to mention.

I'm sure that in your wisdom you will agree with this, regardless of whether it meets other criteria.

Best regards

John Crabtree
19 Tristania St
Bangalow
NSW 2479.



Virus-free. www.avg.com

06 May 2019

Mr Mark Arnold
General Manager
Byron Shire Council
Station Street
Mullumbimby NSW 2482

OBJECTION TO:

DA No 10.2019.161.1
23 Lismore Rd, Bangalow 2479
Multi Dwelling Housing with 17 units

I have a number of reasons for lodging this objection.

First and foremost it is in the centre of a rapidly decreasing area of historic charm, surrounded by heritage houses and located within what was known as the Bangalow Heritage Conservation precinct. It is alarming to see the Village rapidly is losing its heritage character due to an inordinate amount of development. This proposed development does not fit into the surrounding area of single storey character houses, some over 100 years old.

- The building exceeds elevation heights and will negatively impact on adjoining neighbours privacy and limit sunlight. The resident at 15 Thomas St will be severely impacted, looking onto a red brick wall of 2 stories and unit residents will look straight onto her pool and garden. The other adjoining properties will also have no privacy.
- 1.5m setbacks will ensure adjoining residents look straight onto the buildings and over shadowing has not been addressed.
- 17 units with 34 plus residents will create noise, how is it going to be managed?
- Landscaping, solar access, garbage and car/bike washing areas do not appear to follow accepted guidelines or been entirely ignored. Surely residents of affordable housing are entitled to the same amenities the rest of the Shire enjoy?
- Existing easement will not allow for screening plants
- The building envelope with its limited landscaping and excessive hard surfaces will badly impact Byron Creek.
- Proposed as affordable housing for seniors, one disabled unit is not enough and access is plainly inadequate.
- The car parking area is too tight, small parking bays and the one disabled space provided is no larger than the others
- Lismore Road carries a lot of traffic between the roundabout and Rifle Range Road. That most residents will be riding bikes in this area of heavy traffic is beyond belief. A more honest scenario is 34 cars more in the area. When 14 allocated spaces are full where will they park. Parking is restricted on Lismore Road either side of this proposed development.

OBJECTION - DA No 10.2019.161.1

Personally, I do not believe anything remotely like "affordable housing" should be managed by developers. A bit like the fox taking care of the henhouse. Given the cost of land in Bangalow, affordable housing cannot be achieved by individuals or developers. Using the donga's in Ballina Rd as an example, rents are not by any stretch affordable. Affordable housing should be managed by Councils, State and Federal governments. Developers have been given excessive concessions allowing them to make inordinate profits and provide substandard accommodation that would otherwise not be permitted.

The Bangalow community over the years have worked to retain the heritage of our village, its rural character and values. Some battles have sadly been lost, but this time I implore Council to see this mean, unattractive development for what it is, a blatant grab for profits with no regard for the amenity of surrounding residents or those of the future tenants of 23 LISMORE ROAD. Is not time to say NO to developers who believe they can ignore community led planning initiatives.

Gail Fountain

Signature

Date

14 Thomas Street
Bangalow 2479
6687 0719

Scott, Noreen

From: purse dave <pursedave@hotmail.com>
Sent: Tuesday, 7 May 2019 9:39 PM
To: submissions
Cc: council; michael.lyon@cr.byron.nsw.gov.au; cate.coorey@cr.byron.nsw.gov.au; basil.cameron@cr.byron.nsw.gov.au; alan.hunter@cr.byron.nsw.gov.au; jan.hackett@cr.byron.nsw.gov.au
Subject: DA 10.2019.161.1 Multi Dwelling Housing Seventen Dwellings, 23 Lismore Road, Bangalow.

Dear Sir/Madam,

I wish to express my concerns on the above development application, proposed for the Bangalow Conservation Area. Below are some of my points of objection on this totally inappropriate proposal.

- The proposal in no way fits councils own Bangalow Village draft plan released only last year, in particular the following points stand out.
- 1.1.1, 2.1.1, 2.1.2, 2.3.1, 4.2, 6.2.
- The proposal is for affordable housing, these units will not be good value for money.
- The developer has constructed several similar developments around the Shire and I know from personal experience that they are practically unliveable due to a number of factors.
- They are too small, too densely packed with no noise buffer between neighbouring units, overpriced and have no external private areas to enjoy.
- The developers, other similar projects are constantly advertised for rent (a quick internet search proves this) this leads to a very transient population. I personally don't think this is good for Bangalow or any other village in the area. The council should focus on building communities, rather than allowing this kind of development.
- Can the developers provide tenant turn over figures for their other projects? This would prove that rather than creating a community these type of developments create a very transient neighbourhood.
- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk and finish.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).

Hopefully the council can look at the bigger picture for Bangalow and realise the towns future is not best served by this type of development. Bangalow is a special place, it has retained its heritage character through many challenges over the years and I stand with my community in trying to keep it that way. Development is key to the villages ongoing success, but this type of development will only be to Bangalows detriment.

Yours Sincerely,

David Purse.
 50 Charlotte Street,
 Bangalow.

7th May, 2019

PN: 45640
BYRON SHIRE COUNCIL
DOC NO:
REC'D: 8 MAY 2019
FILE NO: A71169
ASSIGNEE: A. Wilson

RECEIVED BY FRONT COUNTER
- 8 MAY 2019
BYRON SHIRE COUNCIL

C4

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Road, Bangalow NSW 2479
Multi-Dwelling Housing Comprising 17 units

OBJECTION

1. This proposal will adjoin my property (19 Lismore Road, Bangalow) along my western and southern boundaries. My privacy will be totally affected on both of these. The west side has 5 parking spaces facing my bedrooms and bathroom which will not allow me to open curtains or windows as people will be able to look straight into my house. Headlights from such vehicles will also be booming into my house probably disrupting my sleep and privacy.

The southern boundary will have dwellings covering my entire fence line being at a height and a close proximity to afford me no privacy in my rear yard, my veranda and a rear bedroom.

2. The appearance is not in harmony with any adjoining properties or their heritage characteristics. They are 2 story buildings (P29). CL.C1.6.9 Heritage Conservation Areas-must remain single storey. The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the proposal is within the Bangalow Conservation Area.

3. The street is deemed to be low density, how does this fit with 17 dwellings, up to 40 vehicles and possibly 40 more people crammed into a space that would only fit 2 more heritage dwellings as what was placed at 25 Lismore Road a few years ago.

4. The building envelope exceeds elevation height planes in several areas, with one protrusion being very significant.

5. Setbacks include 1.5m minimum that will impose an excessive visual impact on adjoining properties.

6. Overshadowing has not been shown and likely to be significant. Seasonal diagrams are needed to confirm the extent of the issue.

7. Access to Lismore Road is a problem to existing dwellings along the street as cars parked back to the east more than hinder the line of sight to westbound traffic. Vehicles coming from the west into the 50kph zone are usually always speeding. The NSW Police have this part of the street as a designated black spot. As per the developers independent traffic report states the average speed of vehicles in each direction at the site driveway is between 60kph and 70kph. It is a 50kph limit.
There is no available parking on Lismore Road.

8. The rear boundary of the site is subject to flooding in inclement weather. I have seen floodwater wash through the rear fence from Byron Creek flooding.

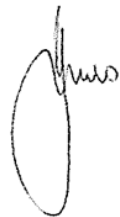
9. The FSR does not comply with the LEP permitted maximum.

10. 20% of units must be for rental for 10 years. This is only 2.4 units that that will fall into a affordable housing situation.

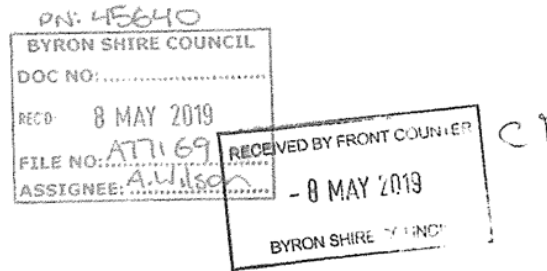
In conclusion this development will greatly affect my living standards, could affect my health due to an overly long building period and also the contamination which still exists in the soil at a lower level than was tested (prior fuel tanks being buried underground). It will likely affect the value of my property.
I am not opposed to a development of the site, but it should all be kept in context with what we already have in Bangalow which is a unique country village that we who have lived here for many years all love and enjoy.

Jennifer Barnes (homeowner)
19 Lismore Road,
Bangalow NSW. 2479

Ph. 0488957128



7/5/2019



7th May,2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Road,Bangalow NSW 2479
Multi-Dwelling Housing Comprising 17 units

OBJECTION

1. This proposal will adjoin my property (19 Lismore Road,Bangalow) along my western and southern boundaries. My privacy will be totally affected on both of these. The west side has 5 parking spaces facing my bedrooms and bathroom which will not allow me to open curtains or windows as people will be able to look straight into my house. Headlights from such vehicles will also be booming into my house probably disrupting my sleep and privacy.
The southern boundary will have dwellings covering my entire fence line being at a height and a close proximity to afford me no privacy in my rear yard,my veranda and a rear bedroom.
2. The appearance is not in harmony with any adjoining properties or there heritage characteristics. They are 2 story buildings (P29). CL.C1.6.9 Heritage Conservation Areas-must Remain single storey. The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the proposal is within the Bangalow Conservation Area.
3. The street is deemed to be low density,how does this fit with 17 dwellings,up to 40 vehicles and possibly 40 more people crammed into a space that would only fit 2 more heritage dwellings as what was placed at 25 Lismore Road a few years ago.
4. The building envelope exceeds elevation height planes in several areas,with one protrusion being very significant.
5. Setbacks include 1.5m minimum that will impose an excessive visual impact on adjoining properties.

6. Overshadowing has not been shown and likely to be significant. Seasonal diagrams are needed to confirm the extent of the issue.

7. Access to Lismore Road is a problem to existing dwellings along the street as cars parked back to the east more than hinder the line of sight to westbound traffic. Vehicles coming from the west into the 50kph zone are usually always speeding. The NSW Police have this part of the street as a designated black spot. As per the developers independent traffic report states the average speed of vehicles in each direction at the site driveway is between 60kph and 70kph. It is a 50kph limit.
There is no available parking on Lismore Road.

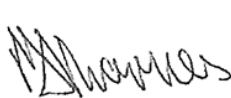
8. The rear boundary of the site is subject to flooding in inclement weather. I have seen floodwater wash through the rear fence from Byron Creek flooding.

9. The FSR does not comply with the LEP permitted maximum.

10. 20% of units must be for rental for 10 years. This is only 2.4 units that that will fall into a affordable housing situation.

In conclusion this development will greatly affect my living standards, could affect my health due to an overly long building period and also the contamination which still exists in the soil at a lower level than was tested (prior fuel tanks being buried underground). It will likely affect the value of my property.
I am not opposed to a development of the site, but it should all be kept in context with what we already have in Bangalow which is a unique country village that we who have lived here for many years all love and enjoy.

Peter Barnes (homeowner)
19 Lismore Road,
Bangalow NSW. 2479

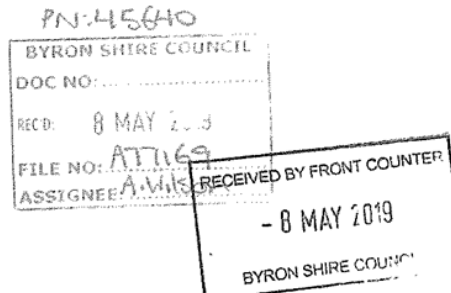


7/5/2019

Ph. 0488957128

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.



5 May 2019

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
- The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Conservation Area.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk, scale and finishes.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
- Setbacks of only 1.5m will impose an excessive visual impact on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building.
- The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
- Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.
- Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50%

increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Dominant concrete surface areas limit landscaping opportunities for communal spaces.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- Excessive hard surface areas will exacerbate stormwater runoff to nearby Byron Creek.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
- Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.

While we acknowledge the need for affordable housing this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, which have been directed by NSW State Planning to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

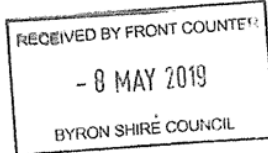
7/5/19 Rebecca Ross
 Rebecca Ross 17 Lismore rd
 Bangalow
 2479

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

PN: 45640
BYRON SHIRE COUNCIL
DOC NO:
REC'D: 8 MAY 2019
FILE NO: AT1169
ASSIGNEE: A. Wilson



April 2019

Letter of Support - 23 Lismore Road Bangalow NSW

My name is: LACHLAN MILES

and I live at: 22 MARLIN CRT HAT HEAD

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. it will deliver long term rental housing and generates housing diversity.
2. is well located in relation to employment and essential services e.g. grocery shops and medical.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing
4. Has the potential to fill the gap in for housing products missing within the Shire - including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed

Date

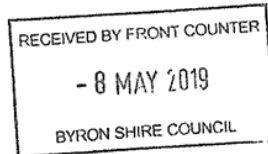
08.05.2019

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

PN: 45640
BYRON SHIRE COUNCIL
DOC NO:
RECD: 8 MAY 2019
FILE NO: AT1169
ASSIGNEE: A. Wilson



April 2019

Letter of Support - 23 Lismore Road Bangalow NSW

My name is: Kathryne Frogley

and I live at: Shop 71 Ballina St.

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity.
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
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4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed: K. Frogley

Date: 3.5.2019

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

PN: 45640
BYRON SHIRE COUNCIL
DOC NO:
RECD: 8 MAY 2019
FILE NO: A77169
ASSIGNEE: A. Wilson

RECEIVED BY FRONT COUNTER
- 8 MAY 2019
BYRON SHIRE COUNCIL

April 2019

Letter of Support -23 Lismore Road Bangalow NSW

My name is: WILLIAM DENIS CODY

and I live at: 5 Henderson Place Lismore Head

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity.
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
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Signed:

W.D. Cody

Date:

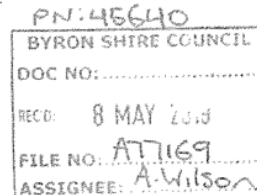
7 MAY 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.



Mike Mossman
59 Granuaille Road
Bangalow NSW 2479
7th May 2019



OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the **additional need to satisfy heritage compatibility** conditions as the project site is **within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Listed heritage items in the immediate area** include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
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- **Noise buffers** between units and adjacent houses are not explained.
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- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- **Excessive impervious areas** will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
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We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

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Signature: 

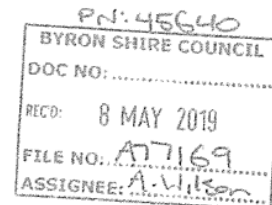
Mike Mossman



Brigitte Zeizig
57 Granuaille Road
Bangalow NSW 2479
7th May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.



OBJECTION

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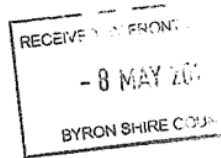
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Signature: _____

Brigitte Zeisig
BRIGITTE ZEISIG

7.5.2019

~~BRIGITTE ZEISIG~~

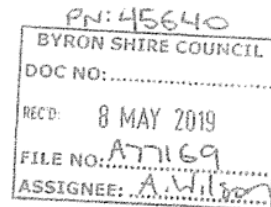


Max and Cynthia Campbell
13 Granuaille Crescent
Bangalow NSW 2479

7th May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.



OBJECTION

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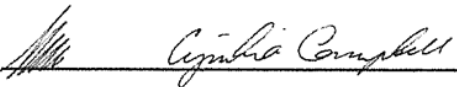
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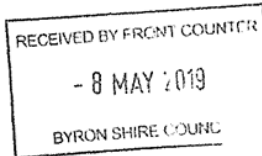


Date:



Name:



Ellen Le Hanne
 9 Granuaille Crescent
 Bangalow NSW 2479
 7th May 2019

General Manager
 Mr Mark Arnold

DA No. 10.2019.161.1
 23 Lismore Bay Road, BANGALOW NSW 2479
 Multi- Dwelling Housing Comprising 17 Dwellings.

DN: 45640	
BYRON SHIRE COUNCIL	
DOC NO:	
REC'D:	8 MAY 2019
FILE NO:	A77169
ASSIGNEE:	A. Wilson

OBJECTION

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- **The DA does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.
- **Car parking is extremely challenging** with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- **Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd** which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Signature: Ellen Le Hanne

Ellen Le Hanne

8-5-19

Are you planning to bring the homeless from Byron to Bangalow? P.P. Ehr.

6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1

23 Lismore Bay Road, BANGALOW NSW 2479

Multi-Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation Area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 5 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the additional **need to satisfy heritage compatibility** conditions as the **project site is within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Listed heritage items in the immediate area** include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
- **Setbacks of only 1.5m will impose an excessive visual impact** on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building very close to their boundary fence.
- The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.
- **Overlooking** will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool.
- **Overlooking** from upper balconies, living areas and windows also **invades the privacy of other adjoining properties**. A drainage easement on one common boundary prevents screening.
- **Overshadowing has not been shown** and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.

- **The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5.** Affordable housing concessions are used to justify a 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- **Noise buffers** between units and adjacent houses are not explained.
- **Solar access** is not available to all units.
- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- **Excessive impervious areas** will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA **does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.
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Signature: _____

Name: _____

Date: 12/5/19

DAVID V. RAHEED

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

Scott, Noreen

From: Dominic Bean <dom@2camels.com.au>
Sent: Monday, 6 May 2019 11:10 AM
To: submissions
Cc: council; michael.lyon@cr.byron.nsw.gov.au; alan.hunter@cr.byron.nsw.gov.au; basil.cameron@cr.byron.nsw.gov.au; cate.coorey@cr.byron.nsw.gov.au; jan.hackett@cr.byron.nsw.gov.au; jeannette.martin@cr.byron.nsw.gov.au; paul.spooner@cr.byron.nsw.gov.au; sarah.ndiaye@cr.byron.nsw.gov.au
Subject: In Reference to Development Application 10.2019.161.1

Hi

This has been sent on behalf of **Jan Hulbert** as she doesn't have email

Thanks

Development of
discriptions

10.2019, Bangala
23 Lismore Road a
(Lot A. DP 3768,
Lismore Housing C



Dominic Bean

e: dom@2camels.com.au

m: 0414 359 921

t: 02 6687 2706

w: 2camels.com.au

BANGALOW PROGRESS ASSOCIATION

8 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Road, BANGALOW NSW 2479
Multi Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the additional **need to satisfy heritage compatibility** conditions as the project **site is within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- **Listed heritage items in the immediate area** include Blanch's House, the adjoining site at 27 Lismore Rd. An appealing heritage entry to Bangalow village is therefore seriously compromised. Other nearby listed items are George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Setbacks of only 1.5m will impose an excessive visual impact** on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building very close to their boundary fence.
- The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.
- **Overlooking** will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also **invades the privacy of other adjoining properties**. A drainage easement on one common boundary prevents screening.

BANGALOW PROGRESS ASSOCIATION

- **Overshadowing has not been shown** and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- **The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP** permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50% density increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- **Noise buffers** between units and adjacent houses are not explained.
- **Solar access** is not available to all units.
- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- **Excessive impervious areas** will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA **does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for compliance.
- **Car parking is extremely challenging** with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking space on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by using affordable housing regulations to deliver a substandard example of fulfilling social needs.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Signed

BANGALOW PROGRESS ASSOCIATION



Ian Holmes
President, Bangalow Progress Association
0414 959 936
6687 2368

General Manager
Mr Mark Arnold

PN: 45640
BYRON SHIRE COUNCIL
DOC NO: _____
REC'D: 9 MAY 2019
FILE NO: ATT169
ASSIGNEE: A. Wilson

5 May 2019

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

RECEIVED BY FRONT COUNTER
- 8 MAY 2019
BYRON SHIRE COUNCIL

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.
- The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Conservation Area.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk, scale and finishes.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
- Setbacks of only 1.5m will impose an excessive visual impact on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building.
- The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
- Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.
- Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50%

increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Dominant concrete surface areas limit landscaping opportunities for communal spaces.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- Excessive hard surface areas will exacerbate stormwater runoff to nearby Byron Creek.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
- Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.
- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.

While we acknowledge the need for affordable housing this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, which have been directed by NSW State Planning to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Signature: [Signature]

Date: 6.5.19

Name: Joanne Miller









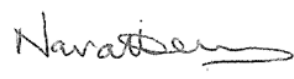
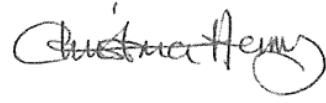


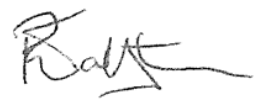

Signed petition attached

[Signature]

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9 - ATTACHMENT 2

DATE.	NAME.	ADDRESS.	SIGNATURE.
7/5/19	Barry Brown	1A THOMAS ST	
	Michael Laymore	44 Charlotte St Bangalow	
	Jade Hart	56 Charlotte St Bangalow	
	Jacqueline Newbery	50 Charlotte St Bangalow	
	Sandra Laymore	48 Charlotte St Bangalow	
	Seana Ryan	46 Charlotte St Bangalow	
	Adam Norton	46 Charlotte St Bangalow	
	Bronwyn Barkla	5 Meadows Close	
	Nava Henry	11 Meadows Close Bangalow	
	Christina Henry	11 Meadows Close Bangalow	
	KELLY DANIELS	10 MEADOWS CLOSE BANGALOW	
	MARK DANIELS	10 MEADOWS CLOSE BANGALOW.	
	PADDY WALLINGTON	8 MEADOWS CLOSE BANGALOW	
	SARAH MAPPox	8 MEADOWS CLOSE BANGALOW	

6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the additional **need to satisfy heritage compatibility** conditions as the project site is **within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Listed heritage items in the immediate area** include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
- **Setbacks of only 1.5m will impose an excessive visual impact** on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building very close to their boundary fence.
- The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.
- **Overlooking** will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also **invades the privacy of other adjoining properties**. A drainage easement on one common boundary prevents screening.
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- **The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP** permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- **Noise buffers** between units and adjacent houses are not explained.
- **Solar access** is not available to all units.
- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
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Signature: _____

Date: 8/5/19

Name: _____

JOHN McINTOSH
PO Box 446
BANGALOW 2479

7th May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

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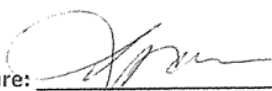
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Signature: 
Name: LINDA SPARROW

Date: 7/5/19

6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

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- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

We acknowledge the need for affordable housing; however this should be done in a location and manner which is consistent with local character while creating pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

Signature: _____

Date: _____

Name: _____

6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

- DA consent is subject to a **local character test** and the buildings are **dramatically incompatible** with surrounding residential character.
- The importance of character is amplified by the additional **need to satisfy heritage compatibility** conditions as the project site is **within the Bangalow Heritage Conservation Area**.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is **glaringly inconsistent in terms of bulk, scale and finishes**.
- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Listed heritage items in the immediate area** include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
- **Setbacks of only 1.5m will impose an excessive visual impact** on adjoining properties. The residents at 15 Thomas St would face the red brick walls of a 2-storey building very close to their boundary fence.
- The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.
- **Overlooking** will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also **invades the privacy of other adjoining properties**. A drainage easement on one common boundary prevents screening.
- **Overshadowing has not been shown** and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- **The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP** permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50%

increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

- **Noise buffers** between units and adjacent houses are not explained.
- **Solar access** is not available to all units.
- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
- Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.
- **Excessive impervious areas** will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA **does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.
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Signature: _____ AB Cole _____

Date: 7/5/2019

Name: _____ Aileen Cole _____

Scott, Noreen

From: Margot Hays <margothays@bigpond.com>
Sent: Tuesday, 7 May 2019 3:44 PM
To: submissions
Subject: Bangalow DA 10.2019.161.1

Subject: Bangalow DA 10.2019.161.1

To Whom it May Concern

I am writing to lodge objection to the DA at 23 Lismore rd.Bangalow.

My objections are the size of the studio units in a development which is not in keeping with the heritage character of the area.

This development is presented as low cost housing however the control of the rent has no guarantee to be low cost housing.

Parking, renewable energy and noise buffers are not carefully considered in this development.

This development does not meet the basic needs of a genuine low cost housing

development which we do need in Bangalow and does not meet the heritage standards of the area

Kind regards

Margot Hays
3 Gumtree Place
Bangalow 2479

Sent from my iPad

Scott, Noreen

From: kim taylor-king <kimtaylor-king@hotmail.com.au>
Sent: Tuesday, 7 May 2019 3:43 PM
To: submissions
Subject: RE DA23 Lismore Rd Bangalow

Attention Simon Richardson, Michael Lynon, Cate Coory Basil Cameron Alan Hunter Jack Hackett

I am writing to you regarding this DA23 Lismore Rd Bangalow with great concern.

What are these developers thinking putting 17 (so called) "affordable housing within the Bangalow Heritage conservation area!!!!

This would have a negative impact on the Heritage character of Bangalow with poor social outcomes, a big SCAR in such a beautiful Historic town.

This site is amongst 100 year old home in Thomas St Bangalow which has had to comply with the LEP with recent renovations.

Plans are very vague when it comes to landscaping, shadowing of 2storey bulidings on neighbouring property, noise buffers.

A horrid complex in a beautiful historic town NO WAY

What ratio of dwellings is affordable housing? Time to close that loophole

Please give this a great deal of consideration Bangalow does not need this

Regards

Kim Taylor-King

The General Manager: Mr Mark Arnold

7th May 2019

DA No: 10.2019.161.1

23 Lismore Rd, BANGALOW NSW 2479

Multi-Dwelling Housing comprising 17 (3x2 Storey) dwellings

OBJECTION:

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

MY NAME is ISOBEL SINCLAIR. I am retired and live at 15 THOMAS ST BANGALOW.

I share a 38.5m boundary with the proposed development. My cottage at 15 THOMAS ST is well over 100yrs old & I was required to comply with heritage guidelines for my recent renovations. These renovations were overseen by Deborah Wray, a Heritage Architect from Grafton.

Bangalow has been my home town for the last 30yrs. My family comprises several generations who come together at my cottage to share family occasions.

I am and have always been passionate about Bangalow and preserving our Heritage Character. Thomas St is lined with many lovely 100yr old homes and sits within the 'Heritage Precinct'. The proposed development will in effect be a continuation of line of sight of the Thomas St cottages and Lismore Rd cottages and is sited in our heritage conservation area.

1: This DA is subject to a local character test and the proposed buildings are dramatically incompatible with the surrounding heritage residential character.

2: The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Heritage Conservation Area.

The 'STATEMENT OF HERITAGE IMPACT' by URBIS PTY LTD & commissioned by the developers STATES:

"The Proposal is designed in a contemporary manner and does not seek to imitate or replicate any architectural style of buildings/elements within Bangalow".

"The form, use of materials and finishes are recognisably modern"

3: Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaringly inconsistent in terms of bulk, scale and finishes.

4: **Overlooking:** The impact of this development on my peace and quiet, my private spaces and enjoyment of my home & environment would be catastrophic. Overlooking from upper balconies living areas and windows also invades the privacy of other adjoining neighbours.

5: **Setbacks of only 1.5m** will have an excessive visual impact on adjoining properties. My cottage at 15 THOMAS ST will face the red brick walls of 2storey buildings with no possibility of screening and impact light and winter sun dramatically. A drainage easement on one common boundary also prevents screening.

6: The building envelope **exceeds elevation height planes** in several areas, with at least one protrusion being very significant.

7: Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

8: Car parking is extremely challenging with awkward spaces that are narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.

9: The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify a 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

10: Noise buffers between units and adjacent houses are not explained.

11: Solar access is not available to all units.

12: There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.

13: Plans are **inconsistent with respect to garbage areas** and do not consider the impact on adjoining neighbours. Such areas further reduce the space available for landscaping.

14: Excessive impervious areas will exacerbate stormwater runoff to nearby Byron Creek which is part of our water catchment system.

15: The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.

16: The DA **does not address the objectives of seniors living policy and provisions for disabled access** are minimal and inadequate. Numerous changes, regarding access to units and mobility within units, need to be considered for many units to comply.

While I do acknowledge the need for affordable housing, it should be done in a location & manner that is suitable and consistent with local character. ***This development application adopts a miserly approach by manipulating regulations to deliver a substandard example of fulfilling social needs.***

The overwhelming consensus in the Bangalow community over the last few years is to protect and maintain the small rural village feel, its unique heritage character and values and amenity of the village.

Over two years, many hundreds of man-hours have been spent by leaders within the Bangalow community at planning meetings, which have defined the unique heritage character and values of Bangalow. The overriding consensus was to protect and maintain the small, rural amenity of this village. This work continues to be reflected as local character narratives in the emerging Residential Strategy. Developers should respond to and respect such community led planning initiatives, as directed by NSW State Planning, to achieve optimal community outcomes. This DA totally undermines these enduring objectives and should be refused.

THIS DA HAS A COMPLETE DISREGARD FOR THESE OBJECTIVES AND SHOULD BE REJECTED.

Name: _____ Signature: _____ Date: _____

6 May 2019

General Manager
Mr Mark Arnold

DA No. 10.2019.161.1
23 Lismore Bay Road, BANGALOW NSW 2479
Multi- Dwelling Housing Comprising 17 Dwellings.

OBJECTION

The proposal includes a multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot. This site is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding heritage and residential character.

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- We note the adjoining cottage at 15 Thomas St is more than 100 years old and has been required to comply with heritage guidelines for past renovations.
- **Listed heritage items in the immediate area** include Blanch's House (adjoining site at 27 Lismore Rd), George Reading Store (Cnr Lismore Rd & Robinson St) and Hartford House (14 Charlotte St).
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increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.

- **Noise buffers** between units and adjacent houses are not explained.
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- There are **no landscaping plans** showing how a required minimum area of 35 sqm per dwelling would be allocated on the site. Restricted availability of surface area limits landscaping opportunities for communal spaces.
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- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour in a dangerous 80km to 50km speed transition zone.

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Signature: _____

Clive J Tasker

Date: _____

6/5/2019

Name: _____

CLIVE J TASKER

6 May 2019

General Manager
Mr Mark Arnold

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Signature: _____

Date: _____

Name: _____

Scott, Noreen

From: Sue Gow <susangow2@gmail.com>
Sent: Monday, 6 May 2019 5:44 PM
To: council
Subject: DA 10.2019.161.1

Dear Simon

DA 10.2019.161.1

The proposal of multi dwelling housing development comprising 17 dwellings, located on 23 Lismore Rd on the site of the Telstra depot, is surrounded by heritage houses and is located within the Bangalow Heritage Conservation area. Planning concessions for affordable and senior housing have been invoked to increase building density and provide fewer car parking spaces. The dwellings are contained within 3, 2 story blocks where the width of the cheapest 6 units is a slender 1.8m - too small for a double bed. This results in a compressed group of units with sub-standard living conditions that are a complete aberration to surrounding residential character.

I have reviewed this matter and I am concerned with the summary of key points noted below the DA fails to comply with requirements for approval. I encourage the council refuse the DA submission. The council needs to preserve the very distinctive character for which Bangalow is renowned.

- DA consent is subject to a local character test and the buildings are dramatically incompatible with surrounding residential character.

- The importance of character is amplified by the additional need to satisfy heritage compatibility conditions as the project site is within the Bangalow Conservation Area.
- Surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaring inconsistent in terms of bulk and finish.
- The adjoining cottage at 15 Thomas St is more than 100 years old and was required to comply with heritage guidelines for recent renovations.
- Listed heritage items in the immediate area include Blanche's House (17m west of site), George Reading Store (Lismore Rd) and Hartford House (Charlotte St).
- Setbacks include a 1.5m minimum that will impose an excessive visual impact on adjoining properties. Their residents at 15 Thomas St would face the red brick walls of a 2-storey building.
- The building envelope exceeds elevation height planes in several areas, with at least one protrusion being very significant.
- Overlooking will affect 15 Thomas St which shares a 38.5m boundary with the rear block of the development overlooking the private outdoor area and swimming pool. Overlooking from upper balconies, living areas and windows also invades the privacy of other adjoining properties. A drainage easement on one common boundary prevents screening.

- Overshadowing has not been shown and is likely to be significant. Shadow diagrams are needed to confirm whether satisfactory.
- The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5. Affordable housing concessions are used to justify the 50% increase without any statement confirming relative rental rates based on Bangalow median rental and income levels.
- Noise buffers between units and adjacent houses are not explained.
- Solar access is not available to all units.
- There are no landscaping plans showing how a required minimum area of 35 sqm per dwelling would be allocated and landscaped on the site.
- Plans are inconsistent with respect to garbage areas and do not consider the impact on adjoining neighbours. Such areas reduce the limited space available for landscaping.
- Excessive concrete surface areas are unacceptable in a flood prone area.
- The applicant is not entitled to apply planning concessions that are restricted to listed community housing providers.
- The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate. Numerous changes regarding access to units and mobility within units needs to be considered for many units, rather than the single unit that may comply.
- Car parking is extremely challenging with awkward spaces that are narrow and difficult to

access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.

- Limited on-site parking of 14 spaces cannot be compensated by parking on busy Lismore Rd which has no designated parking areas and can have traffic rates of 1000 cars per hour.

There is an obvious need for affordable housing in Bangalow but it should be done in a manner which is consistent with local character and creates pleasant liveable spaces that can be enjoyed by low and middle income earners. This DA adopts a very poor approach by manipulating regulations to deliver a disappointing outcome that will have undesirable social consequences.

Susan Gow

Resident @ 27 Lismore Road, Bangalow 2479



ReplyForward

6 May 2019

Attn: Mr R G Van Iersel
Regarding DA 10.2019.161.1, Lot A DP 376877, Lot 2 DP 1214341
23 Lismore Bay Road, BANGALOW NSW 2479

Dear Mr Van Iersel

Please accept this submission as an OBJECTION based on the following reasons:

These buildings are dramatically incompatible with surrounding residential character and therefore do not comply.

Furthermore, surrounding buildings are single storey federation era houses constructed of timber with corrugated iron roofs. The proposed development is glaringly inconsistent in terms of bulk, scale and finishes.

Setbacks of only 1.5m will impose an excessive visual impact on adjoining properties and the building envelope exceeds elevation height planes in several areas.

Shadow diagrams are needed to confirm whether satisfactory overshadowing has been planned.

The Floor Space Ratio (FSR) of 0.75 does not comply with the LEP permitted maximum FSR of 0.5.

This DA does not address the objectives of seniors living policy and provisions for disabled access are completely inadequate.

Car parking is awkward, narrow and difficult to access, particularly for undercover parking where many manoeuvres are required to park and exit. A single disabled car park noted on plans is no larger than others and so does not qualify for disabled use.

Whilst I acknowledge the need for affordable/senior housing this should be done in a location that is consistent with our town's existing character and not because a developer buys a parcel of land and thinks that they can build whatever will yield the greatest financial return.

Bangalow has been and will continue to be plagued by developers who put financial gain above community. Hopefully the council will send a clear message to ALL developers that Bangalow and Byron Shire for that matter is not their plaything.

Yours Sincerely,



Ean Jones

69 Dudgeons Lane Bangalow NSW 2479

Scott, Noreen

From: Melissa Morrissey <melissamorrissey888@gmail.com>
Sent: Tuesday, 7 May 2019 1:45 PM
To: submissions; Van Iersel, Rob; michael.lyon@cr.byron.nsw.gov.au
Subject: Development Application 10.2019.161.1 Parcel No.'s 45640 & 267884 - 23 Lismore Road, Bangalow - Submission

Attention:
Mr R.G. Van Iersel & Acting Mayor Michael Lyon
Byron Shire Council

Dear Sirs

Re: Development Application 10.2019.161.1 - Parcel No. 45640 & 267884 - 23 Lismore Road, Bangalow - Submission

I live at 68B Charlotte Street, Bangalow and I can see the block of land from the street outside my home.

I strenuously object to the above mentioned DA application which is grossly out of character with the beautiful heritage precinct of Bangalow.

If approved the development will have a significant & detrimental impact on my enjoyment of living in this special heritage area and the value of my investment.

As a direct close neighbour to the proposed DA, I object to its approval on the following grounds:

- **Traffic - major increase during & after development:**
- The traffic will be horrendous and dangerous given much of the access during construction will come from Charlotte & Thomas Streets.
- The parking of vehicles on Lismore Road is already a danger in that it blocks the driver's view when exiting Robertson Street onto Lismore Road.
- Vehicles involved in the construction will necessarily be very large, making multiple trips to & from the building site. This will make the entire area unsafe.
- Any increase in the local & immediate traffic will raise the risk of accidents.
- There are many families with young children very close to this DA. These children in particular will be at risk from the increase in both construction & residential traffic.
- **Inadequate on site/off street parking:**
- This will cause the balance of vehicles belonging to residents of 23 Lismore Road to park their cars in Robertson, Thomas & Charlotte Streets, all of which are already overflowing with a dangerous level of traffic.
- With only 80% of the dwellings being provided with off street parking, this again adds to the inevitable overflow of people needing to find somewhere else to park their cars.
- **Seniors living:**
- Given the dwellings are multi-storey dwellings they will not be suitable for most seniors and elderly residents as claimed. On the whole seniors require a level house with little or no steps.
- **The brick veneer complex looks like a Sydney apartment block**
- The proposed complex is in stark contrast to the beautiful heritage character of our neighbourhood and the whole of Bangalow.
- Our immediate neighbourhood around Thomas & Charlotte Streets contains some of the most beautiful heritage houses.
- It is this aspect of Bangalow that attracts the tourists who dine and purchase from the businesses in Bangalow.

Every single resident I have discussed this DA with is appalled that something as out of character, large and ugly could be put to council for consideration, let alone development.

The immediate residents, of which I am one, will not stop at this point should the DA be approved. We will take it as far as necessary to protect the heritage character of our beautiful and charming home that is Bangalow.

Yours sincerely

Melissa

Melissa Morrissey
68B Charlotte Street
Bangalow NSW 2479
M: 0418 281 254
melissamorrissey888@gmail.com

Alternatively:
P.O. Box 588
Bangalow NSW 2479



April 2019

Letter of Support -23 Lismore Road Bangalow NSWMy name is: Alex Connorand I live at: 2/1 Kendall Street, Byron Bay

I provide this letter in support of the development application for 23 Lismore Road Bangalow NSW. The development should be favourably determined because:

1. It will deliver long term rental housing and generates housing diversity.
2. Is well located in relation to employment and essential services e.g. grocery shops and medical.
3. Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.
4. Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for retirees, and housing for young persons and couples

Signed:

Date:

3/4/19

BYRON SHIRE COUNCIL	
DOC NO:	.....
RECD:	7 MAY 2019
FILE NO:	A77169
ASSIGNEE:	.....

Scott, Noreen

From: mlarymore@gmail.com
Sent: Monday, 6 May 2019 10:27 PM
To: submissions
Subject: Submission on DA 10.2019.161.1

Atten: Mr Rob Van Iersal

Re: 23 Lismore Rd Bangalow, parcel # 45640, 267884

Dear Rob,

As residents of Charlotte St Bangalow, which backs onto the proposed development site, we are disappointed that a development of this size and scale is even being considered on an average sized building block in a residential / rural location. We would like to object to the development for the following reasons.

- 1) The site falls within a listed Heritage Conservation area and is surrounded by heritage homes that have had to comply with the heritage guidelines.
- 2) We are talking a 17 unit, red brick complex, with the only street access being an extremely busy Lismore Rd at a point only a couple of hundred metres from an 80 kph zone.
- 3) This 17 unit complex will have only 13 allocated car spaces. Most families have two cars these days so this leaves the only other available parking on Lismore Rd. Parking on Lismore Rd has already reduced visibility when entering from Robertson St with the result that there has been a number of serious accidents at this intersection over the last 18 months.
- 5) Parking in Bangalow is already at break point, especially on market days. To date there has been no upgrading of infrastructure to cope with the additional traffic generated by new homes being built in the area, so allowing developments of this type will only exacerbate the situation.

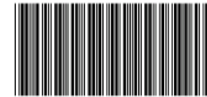
Sandra and I moved to Bangalow several years ago to enjoy the village atmosphere of a small country town but if developments like the proposal for No 23 Lismore Rd go ahead, any atmosphere Bangalow had, will fast disappear, as will the tourist trade generated by this atmosphere to the detriment of all residents and business owners of our community.

Trusting Council will take notice to local input and support us when we really need it.

Kind regards
Michael and Sandra Larymore
48 Charlotte St Bangalow
M. 0409562921



Filed: 9 July 2019 11:34 AM



D00015LA7L

Statement of Facts and Contentions

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2019/00153305

TITLE OF PROCEEDINGS

First Applicant	Lismore Venture Pty Ltd
First Respondent	Byron Shire Council

FILING DETAILS

Filed for	Byron Shire Council, Respondent 1
Legal representative	Adam Joseph Seton
Legal representative reference	
Telephone	02 4626 5077

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Statement of Facts and Contentions (Final Statement of Facts and Contentions.PDF)

[attach.]

Filed: 09/07/2019 11:34 AM

Form A (version 1)

STATEMENT OF FACTS AND CONTENTIONS

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	1
Case number	2019/153305

TITLE OF PROCEEDINGS

Applicant	LISMORE VENTURE PTY LTD
Respondent	BYRON SHIRE COUNCIL

FILING DETAILS

Filed for	Byron Shire Council , respondent
Legal representative	Adam Joseph Seton Marsdens Law Group
Legal representative reference	PCN: 21609 Ref: PDH:ANF:422237
Contact name and telephone	Jisella Corradini-Bird Tel. (02) 4626 5077
Contact email	jcorradini-bird@marsdens.net.au

PART A: FACTS

THE PROPOSAL

- Development Application No. 10.2018.161.1 seeks consent for the construction of a multi dwelling housing development containing 17 dwellings, comprising 8 x 2 bedroom dwellings ("terrace units"), 4 x 1 bedroom dwellings ("row units") and 5 x 1 bedroom studio apartments, arranged in 3 separate buildings, together with associated at grade parking accommodating 14 car spaces (8x residential and 6x visitor) and 24 bicycle spaces.
- A summary of the proposed dwellings is provided below in Table 1:

DWELLING	INTERNAL SIZE	DECK	OUTDOOR SPACE	BEDROOMS	CAR PARKING
T1	93m ²	8m ²	78m ²	2	1
T2	93m ²	8m ²	28m ²	2	1
T3	93m ²	8m ²	28m ²	2	1
T4	93m ²	8m ²	28m ²	2	1
T5	93m ²	8m ²	28m ²	2	1
T6	93m ²	8m ²	28m ²	2	1
T7	93m ²	8m ²	28m ²	2	1
T8	93m ²	8m ²	66m ²	2	1
R1	52m ²	2m ²	16m ²	1	0
R2	52m ²	2m ²	17m ²	1	0

R3	52m ²	2m ²	17m ²	1	0
R4	52m ²	2m ²	36m ²	1	0
S1	32m ²	2m ²	9m ²	1	0
S2	32m ²	2m ²	9m ²	1	0
S3	32m ²	2m ²	9m ²	1	0
S4	32m ²	2m ²	9m ²	1	0
S5	32m ²	2m ²	9m ²	1	0

Table 1: Summary of proposed dwellings.

Studio Apartments

- The 5 x 1 bedroom "studio apartments" are proposed to be situated in a building located toward the mid-point of the site's south-western side boundary.
- The key characteristics of the proposed "studio apartments" are summarised below in Table 2:

GROUND FLOOR	FIRST FLOOR	TOTAL INTERNAL AREA
<ul style="list-style-type: none"> Kitchen and dining Lounge room 1x bathroom Roofed front porch on north-eastern side Private fenced yard and clothes drying area on south-western side 	<ul style="list-style-type: none"> 1x mezzanine bedroom Storage 	32m ²

Table 2: Summary of proposed "studio apartments".

- Laundries are not shown on the plans submitted with the development application in respect of the "studio apartments".

Row Houses

- The 4 x 1 bedroom "row houses" are proposed to be situated in a building to the east of the "studio apartment" building, separated by an internal driveway.
- The key characteristics of the proposed "row houses" are summarised below in Table 3:

GROUND FLOOR	FIRST FLOOR	TOTAL INTERNAL AREA
<ul style="list-style-type: none"> Kitchen and dining Lounge room Laundry Front porch Private fenced yard on northern side 	<ul style="list-style-type: none"> 1x bedroom 1x dressing room 1x bathroom 	52m ²

Table 3: Summary of proposed "row houses".

Terrace Houses

- The 8 x 2 bedroom "terrace houses" are proposed to be situated within a building set along the rear boundary.

9. The key characteristics of the proposed “terrace houses” are summarised below in Table 4:

GROUND FLOOR	FIRST FLOOR	TOTAL INTERNAL AREA
<ul style="list-style-type: none"> • 1x bedroom • 1x bathroom and laundry • 1x car space and storeroom • Private fenced yard 	<ul style="list-style-type: none"> • 1x bedroom • Kitchen and dining • Lounge room • Private deck • 1x bathroom 	93m ²

Table 4: Summary of proposed “terrace houses”.

THE SITE

10. The property is legally described as Lot A DP376877, with a street address of 23 Lismore Road, Bangalow.
11. The site is orientated north-west to south-east and is situated on the southern end of the village of Bangalow.
12. The site is irregular in shape and is in two (2) parts, comprising a rectangular section toward the Lismore Road frontage with a width of 22.555m and a length of 40.335m and a wider section toward the rear with a width of 37.275m and a length of 38.425m. The site has a total area of 2,341.6m².
13. The site is presently vacant, with the exception of an existing Telstra Corporation Exchange box located toward the Lismore Road frontage.
14. The site is subject to restrictions on the use of the land pursuant to section 88B of the Conveyancing Act 1919 benefitting Telstra Corporation Ltd, including a telecommunications easement, an easement for sewage and water drainage and a right of carriageway 5 metres in width.
15. There is no substantial vegetation on the land, other than landscape plantings.
16. The property has a gentle fall away from the Lismore Road frontage which sits at a high point at approximately. RL 48.6m AHD, towards a low point at the south-western corner sitting at a level of approximately RL 44m AHD.
17. The property is situated within Zone R2 Low Density Residential pursuant to the provisions of Byron Local Environmental Plan 2014. An extract of the Land Zoning Map referred to in clause 2.2 of Byron Local Environmental Plan 2014 with the subject site outlined in blue is provided below at Figure 1:

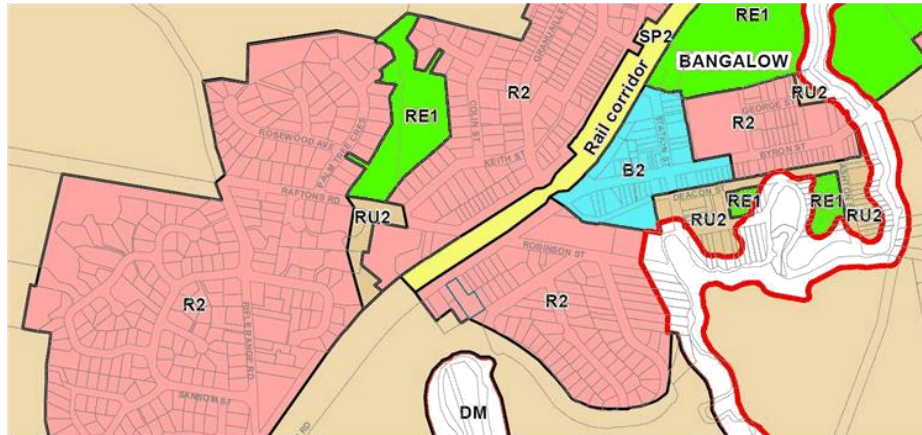


Figure 1: Extract from Land Zoning Map (LZN_003CB) with the subject site outlined in blue.

18. An aerial photograph with the subject site highlighted in yellow is provided below at Figure 2:



Figure 2: Six Maps aerial photograph with the subject site highlighted in yellow.

THE LOCALITY

19. The property is located within a residential precinct on the south-western edge of the Village of Bangalow.
20. Lismore Road, the property's frontage, is a regional connector road between Bangalow and Lismore.
21. The site is situated on a residential block between Lismore Road and Thomas Street which contains 16 lots. The block contains traditionally styled timber and iron single

storey detached dwellings predominantly dating from the early 20th century situated on lots of approximately 500m² in area with generous rear yards.

22. The site and surrounding area is situated within the Bangalow Conservation Area pursuant to the provisions of Byron Local Environmental Plan 2014 which covers a large portion of the Bangalow Village. The New South Wales Office of Environment and Heritage database provides the following Statement of Significance in relation to the heritage conservation area:

"A rare, largely intact early twentieth century village built in a picturesque setting of green hills and sub tropical vegetation with a main street of high quality public and commercial buildings grouped on both sides and an unusually steep sloping street. The village area has a high concentration of quality dwellings, public buildings, streets, back lanes, street trees and landscaping, which taken together, illustrate an identifiable pattern of domestic, industrial and commercial settlement in Bangalow by early pioneering settlers, and a pattern of development of civic infrastructure."

23. The site is located in the vicinity of the following local heritage items identified in Schedule 5 to Byron Local Environmental Plan 2014:
 - (a) "Blanch's House" at 27 Lismore Road, Bangalow (Item I033);
 - (b) George Reading building at the corner of Lismore Road and Robinson Street, Bangalow (Item I031), a commercial building previously comprising a rural supplies store which anchors the block.
 - (c) Catholic Church "St Kevin's" and Catholic Hall at 1 Lismore Road, Bangalow (Item I032);
 - (d) "Hartford House" at 14 Charlotte Street, Bangalow (Item I023).
24. An extract of the Heritage Map referred to in clause 5.10 of Byron Local Environmental Plan 2014 with the subject site outlined in blue is provided at Figure 3 below:



Figure 3: Extract from Heritage Map (HER_003CBB) with the subject site outlined in blue.

25. A newer residential subdivision is located to the south-east of the site, containing approximately 40 residential lots. This subdivision is not situated within the Bangalow Conservation Area and predominantly contains single dwellings, with some elevated given the slope. A number of these dwellings are relocated 'Queenslanders' and many of the newer homes also reflect a heritage character.
26. The site is situated approximately 300 metres from the retail and commercial uses in Bangalow town centre.

THE STATUTORY CONTROLS

27. Environmental Planning and Assessment Act 1979 (“EP&A Act”).
28. Environmental Planning and Assessment Regulation 2000 (“EP&A Regulation”).
29. State Environmental Planning Policy No 55 - Remediation of Land (“SEPP 55”).
30. State Environmental Planning Policy (Affordable Rental Housing) 2009 (“SEPP ARH”).
31. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
32. Byron Local Environmental Plan 2014 (“BLEP 2014”).
 - (a) The site is situated within Zone R2 Low Density Residential pursuant to the provisions of BLEP 2014. An extract of the Land Zoning Map referred to in clause 2.2 of BLEP 2014 is provided at Figure 1 above.
 - (b) Development for the purpose of “multi dwelling housing” is permissible with consent pursuant to the provisions of BLEP 2014.
 - (c) The maximum permissible height of buildings on the site is 9 metres pursuant to the Height of Buildings Map referred to in clause 4.3(2) of BLEP 2014.

- (d) The maximum permissible floor space ratio on the site is 0.5:1 pursuant to the Floor Space Ratio Map referred to in clause 4.4(2) of BLEP 2014.
 - (e) The site is identified as "Drinking water catchment" on the Drinking Water Catchment Map referred to in clause 6.5(2) of BLEP 2014.
33. Byron Shire Development Control Plan 2014 ("BDCP 2014").
- (a) Part A: Preliminary.
 - (b) Part B: Controls Applying Generally to Development Applications.
 - (c) Part C: Further Controls Applying to Land with Specific Constraints and Environmental Characteristics:
 - (i) Chapter C1: Non-Indigenous Heritage.
 - (ii) Chapter C4: Development in a Drinking Water Catchment.
 - (d) Part D: Further Controls Applying to Specific Land Uses:
 - (i) Chapter D1: Residential Accommodation in Urban, Village & Special Purpose Zones.
 - (e) Part E: Further Controls Applying to Specific Localities:
 - (i) Chapter E2: Bangalow.
34. Seniors Living Policy – Urban Design Guidelines for in-fill development.

ACTIONS OF THE RESPONDENT

- 35. On 5 April 2019, Development Application No.10.2018.161.1 was lodged with the Respondent seeking consent for development described as "*multi dwelling housing containing seventeen dwellings*" ("**the development application**").
- 36. On 9 April 2019, the Respondent issued correspondence to the Applicant acknowledging the lodgement of the development application and requesting amended plans demonstrating compliance with apron width requirements per clause 4.5 of AS2890.1 2004.
- 37. On 9 April 2019, the development application was referred to NSW Roads and Maritime Services.
- 38. The development application was publicly notified to adjoining and nearby owners between 18 April 2019 and 8 May 2019. The Respondent received 116 submissions comprising of 97 submissions objecting to the proposed development and 19 in support of the proposed development. One (1) of the submissions of objection was in the form of a petition containing 24 signatures, with another containing 15 signatures.

39. On 17 April 2019, the Respondent issued correspondence to the Applicant seeking clarification as to the nomination of five (5) studio apartments as infill affordable housing pursuant to SEPP ARH on the basis that the combined floor space of studio apartments comprised 14.4% of the total GFA of the proposed development, being an amount less than the 20% specified in clause 13 of SEPP ARH.
40. On 17 April 2019, the Applicant issued correspondence to the Respondent amending the development application to nominate three (3) of the proposed terrace units as infill affordable housing pursuant to SEPP ARH, with a combined floor space of 279m² which constitutes 25% of the total proposed gross floor area.
41. On 29 April 2019, Roads and Maritime Services issued correspondence to the Respondent providing comments in relation to the development application, primarily regarding access into the site.
42. On 16 May 2019, the Applicant commenced proceedings in Class 1 of the Land and Environment Court's jurisdiction appealing against the Respondent's deemed refusal of the development application.
43. The development application has not been determined by the Respondent.

PART B: CONTENTIONS**Inconsistent with the character of the locality**

1. The development application should be refused because the density and scale of the development is incompatible with the character of the local area.

Particulars

- (a) Clause 16A of State Environmental Planning Policy (Affordable Rental Housing) 2009 ("**SEPP ARH**") provides as follows:

"16A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area."

- (b) The site and surrounding area is situated within the Bangalow Conservation Area pursuant to the provisions of Byron Local Environmental Plan 2014 ("**BLEP 2014**"). An extract of the Heritage Map referred to in clause 5.10 of BLEP 2014 is provided at Figure 3 above.
- (c) The Bangalow Conservation Area possesses historic, aesthetic and social significance. The character of the local area in the vicinity of the subject site is strongly influenced by the heritage conservation area listing pursuant to the provisions of BLEP 2014.
- (d) The New South Wales Office of Environment and Heritage database provides the following Statement of Significance in relation to the heritage conservation area:

"A rare, largely intact early twentieth century village built in a picturesque setting of green hills and sub tropical vegetation with a main street of high quality public and commercial buildings grouped on both sides and an unusually steep sloping street. The village area has a high concentration of quality dwellings, public buildings, streets, back lanes, street trees and landscaping, which taken together, illustrate an identifiable pattern of domestic, industrial and commercial settlement in Bangalow by early pioneering settlers, and a pattern of development of civic infrastructure."
- (e) The part of Lismore Road in the vicinity of the subject site forms the southern gateway of the town entry to Bangalow. The streetscape is composed of a group of predominantly historic, single storey, traditional hipped and gabled roofed dwellings on traditional sized lots, punctuated by the historic former Temperance Hall.

- (f) Surrounding developments on the lots comprising the small residential block between Lismore Road and Thomas Street are all set back from the street with landscaped grounds and low fences. The road reserve contains a formal footpath edged by grass verge, kerb and guttering. At the top of the hill, the group is anchored by the George Reading building, an item identified as being of local heritage significance pursuant to the provisions of BLEP 2014 (Item I031). Blanch's house, another item of local heritage significance pursuant to BLEP 2014 (Item I033), anchors the southern end of the group
- (g) The rear of the site lies in proximity to Thomas and Charlotte Streets, a relatively recent subdivision which includes relocated timber dwellings and new infill development including several two storey homes.
- (h) The built character of the new subdivision has utilised the timber and iron material palette, and features gabled roofs of traditional pitch, and joinery details which are consistent with the built character of the Bangalow village setting.
- (i) A historic timber dwelling which was relocated from Byron Bay adjoins the northern side of the site at 15 Thomas Street, Bangalow.
- (j) The proposed development of 17 dwellings is a significant departure from the character of the local area where single dwellings are the norm.
- (k) The proposed two storey terrace unit building is larger in bulk than most buildings in the surrounding Bangalow Conservation Area precinct. It has a length of 32m, which contrasts significantly with the lesser scale and bulk and frontage of the adjoining single dwellings on either side of the land at 15 Thomas Street and 25 Lismore Road, Bangalow.
- (l) Two storey terraced buildings are a noted built element of the commercial main street precinct of Bangalow. However, they are not representative of the residential areas of the Bangalow Conservation Area, which are characterised by predominantly single or one and half storey buildings stepping down the hill, along with some two storey dwellings.
- (m) A building of two storeys in height with a length of 32m, is a departure from the character of the locality, particularly in terms of its relationship to the size of adjoining dwellings. This aspect of the proposal, together with the density of the proposed development of the land, renders the design of the proposal not compatible with the character of the local area and the application should therefore be refused.

Amenity – solar access, private open space and dwelling sizes

2. The development application should be refused because the proposed development does not provide an acceptable level of amenity for future residents.

Particulars

- (a) Clause 14 (1)(e) of SEPP ARH states:

"14 Standards that cannot be used to refuse consent

(1) Site and solar access requirements

A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

(e) solar access

if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter."

- (b) The living areas, internal and external, provided for Terrace Units 1-7 will not receive any direct sunlight in mid-winter between 9:00am and 3:00pm. It has not been demonstrated that 70 per cent of the dwellings of the development will receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter, which is a minimum requirement that the Respondent contends should be met to ensure adequate amenity is afforded to residents of the proposal.
- (c) Clause D1.6.1 of the Byron Development Control Plan 2014 ("BDCP 2014") provides as follows with respect to private open space:

"D1.6.1 Private Open Space Courtyards

Objectives

1. *To ensure that residents have access to private, useable, landscaped open space.*

...

Prescriptive Measures

1. *Each dwelling must have access to an individual courtyard at ground level having a minimum area of 30m² and a minimum length and width each of 4 metres, not including any area used exclusively for the circulation or parking of vehicles. The courtyard must be designed to facilitate access to winter sunshine and must be landscape to Council's satisfaction.*

..."

- (d) The private open space areas provided are significantly smaller than the 30m² required by clause D1.6.1 of BDCP 2014, with 7m² provided per studio apartment, 14.4m² provided per row unit and 18.4m² provided per terrace unit. Further, the private open space areas provided are not a minimum length and width of 4 metres.
- (e) Solar access is restricted to the private open space for the studio units and not available at all to the private open space areas for most of the terrace units.
- (f) Clause D1.6.6 of BDCP 2014 provides as follows with respect to clothes drying facilities:

"D1.6.6 Clothes Drying Facilities

Objectives

- 1. *To ensure that adequate, effective space is provided and provision is made for clothes drying.*

Performance Criteria

Outdoor clothes drying facilities must be provided to meet projected needs and located to facilitate privacy and sunlight access.

Prescriptive measures

The minimum provision of clothes drying facilities must be at the rate of 7.5 metres of line per dwelling, located in suitably screened external drying areas."

- (g) The clothes drying areas provided in respect of the dwellings are inadequate and inconsistent with Clause D1.6.6 of BDCP 2014. The lack of solar access to the outdoor space for the terrace houses results in no effective external drying areas.
- (h) The proposed common landscaped area is situated in a narrow section of land adjoining the internal driveway, located between the bin storage and bike storage area. This area is remote from most of the units and will therefore be of limited use and amenity.
- (i) Clause 14(2) of SEPP ARH states:

(2) General

A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

(b) dwelling size

if each dwelling has a gross floor area of at least:

- (i) 35 square metres in the case of a bedsitter or studio, or
 - (ii) 50 square metres in the case of a dwelling having 1 bedroom, or
 - (iii) 70 square metres in the case of a dwelling having 2 bedrooms, or
 - (iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.
- (j) The proposed studio dwellings, which each contain one bedroom, have a gross floor area (GFA) of 32 square metres. Having regard to the minimum standards set by clause 14 of SEPP ARH, the Respondent contends that the studio dwellings are insufficient in size, which will have an adverse impact on the amenity of future residents.
- (k) Having regard to the above, an unacceptable level of amenity will be afforded to future residents of the proposal and the development application should be refused.

Height of Buildings

3. The development application should be refused because insufficient information has been submitted to enable a proper assessment of the height of the terrace house building, having regard to the requirements of clause 4.3 of BLEP 2014.

Particulars

- (a) Clause 4.3 of BLEP 2014 provides as follows:

"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."

- (b) Pursuant to the Height of Buildings Map referred to in clause 4.3(2) of BLEP 2014, the maximum permissible height of buildings on the site is 9 metres.
- (c) The Dictionary to BLEP 2014 provides the following definition of "building height":

“building height (or height of building) means:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

- (d) The section plan submitted with the development application (Site Section C as shown on Site Sections, Plan No. D-E-03, prepared by The Kollektive, dated 21 January 2019) indicates that the ridge height of the proposed terrace unit building is at RL 54.9m.
- (e) The survey plan submitted with the development application (Sketch Showing Contours and Detail, prepared by Kennedy Surveying, dated 5 March 2019) indicates that the existing ground level is at approximately RL 45m at the south-western corner of the proposed terrace house building, in the approximate location underneath the ridge of the building.
- (f) On the basis of the information submitted with the development application, the Respondent contends that the vertical distance from ground level (existing) to the highest point of the building is 9.9 metres, which does not comply with the maximum permissible height of buildings on the site pursuant to clause 4.3 of BLEP 2014.
- (g) Insufficient information has been provided to enable a full assessment of the measurement of the height of the terrace house building at this location.
- (h) The Applicant has not provided a written request that seeks to justify the contravention of the development standard in clause 4.3 of BLEP 2014 in accordance with clause 4.6 of BLEP 2014.
- (i) The Court, having the functions of the consent authority for the purposes of hearing and disposing of this appeal, cannot grant development consent in circumstances where it has not been demonstrated that the proposed development complies with the height of buildings development standard in clause 4.3 of BLEP 2014 and a written request pursuant to clause 4.6 of BLEP 2014 in relation to the contravention of clause 4.3 of BLEP 2014, which adequately addresses the following matters required to be demonstrated, has not been provided:

- (i) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (ii) That there are sufficient environmental planning grounds to justify the contravention of the development standard.
- (j) The Court would not be satisfied that the proposed development will be in the public interest because it is consistent with the objectives for development within Zone R2 Low Density Residential or with the objectives of clause 4.3 of BLEP 2014.

Encroachment into the Building Height Plane

4. The development application should be refused because the proposed development does not comply with the controls relating to the Building Height Plane in clause D1.2.1 in BDCP 2014. Approval of the development application will result in adverse overlooking and privacy impacts in relation to the adjoining property to the west.

Particulars

- (a) Clause D1.2.1 of BDCP 2014 provides as follows with respect to the Building Height Plane:

"D1.2.1 Building Height Plane

Objectives

1. *To ensure that residential development is designed to minimise impacts on solar access and privacy on adjoining properties, and on the views from adjacent existing buildings.*
2. *To ensure that the occupants of the building or buildings will enjoy the optimum use of winter sunlight and summer shade.*

Performance Criteria

1. *Developments must be set back progressively from the site boundaries as height increases so that they do not adversely affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy or obstructing views.*
2. *Developments must be designed so that they will promote energy efficiency and so that residents may enjoy optimum use of winter sunlight and summer shade.*
3. *Development applications must demonstrate that the windows of living areas (decks, living rooms, bedrooms, kitchens, etc.) of development*

on adjoining properties will, as a minimum, retain full solar access between the hours of 9:00am to 3:00pm on any day.

Prescriptive Measures

1. *The building height plane in combination with boundary setbacks prescribed in this DCP, and building height prescribed in the Byron LEP 2014, form the maximum building envelope for all residential development other than for shop top housing and ancillary dwellings in Zones IN1, IN2 and B7.*
 2. *An exemption from the building height plane may be considered in relation to one or more boundaries in the following circumstances:*
 - a) *Where the floor level is required to be above ground level to comply with Council's requirements for flood protection; or*
 - b) *For the zero lot line boundaries of semi-detached dwellings and attached dwellings; or*
 - c) *In circumstances referred to Prescriptive Measure 2. of Section D1.2.2."*
- (b) The Dictionary to BDCP 2014 defines the term "Building Height Plane" as follows:
- "the plane projected at an angle of 45° over the land to be built upon, measured from a vertical distance of 1.8 metres above ground level (existing) at the site boundary"*
- (c) The Building Height Plane of the proposed development is plotted on the elevations plan submitted with the development application (Elevations 1, Plan No. D-E-01, prepared by The Kollektive, dated 05 March 2019). This plan indicates that the western end of Terrace House 1, including a portion of the upper level external deck, encroaches into the Building Height Plane in relation to the western property boundary.
- (d) The property to the west contains a one storey dwelling adjoining the common boundary, with that dwelling's private open space (rear yard) directly adjacent to the proposed terrace building.
- (e) The existing ground level in this corner of the subject site is at approx. 44.5m AHD. While levels have not been provided, the rear yard of the adjoining property appears to continue to fall to the south-west from this level.
- (f) The terrace building is proposed to be built on retained fill in this location, with the ground floor level set at 46.00m AHD, i.e. 1.5m above existing ground level. This

results in the upper floor level (i.e. the level of the external deck) being at 48.6m AHD, which is approximately 4.1m above existing ground level. The western edge of the building is set at 2.4m from the common boundary.

- (g) Future residents of Terrace House 1 would have a clear, direct view from the external deck down onto the adjoining rear yard which results in unacceptable overlooking and privacy impacts on the adjoining properties.

Equity of access and mobility

5. The development application should be refused because the proposed development does not provide for adaptable housing, accessible car parking or a continuous accessible path of travel within the development in accordance with the requirements of Chapter B13 of BDCP 2014.

Particulars

- (a) Chapter B13.2.2 provides as follows with respect to the access and mobility requirements of multi dwelling housing:

"B13.2.2 Multi Dwelling Housing, Attached Dwellings, Residential Flat Buildings, Shop Top Housing and Serviced Apartments

Objectives

1. *To implement the requirements and objectives of the Disability Discrimination Act, 1992, relevant equitable access legislation and the Byron Disability Access and Inclusion Plan 2008 – 2013.*
2. *To nominate adaptable housing standards for multi unit residential development in Byron Shire.*

Performance Criteria

There are no Performance Criteria.

Prescriptive Measures

1. *Design and Access in accordance with AS1428.1 – Design for Access and Mobility – General Requirements for Access – New Buildings (for class 3, 5, 6, 7, 8 and 9 buildings) and AS 4299 –Adaptable Housing must be provided to and within new developments and major alterations for residential development to which this Section applies as follows:*
 - a) *Dwelling Units: A minimum of 10% of units, rounded up to the nearest whole number should be adaptable housing. Where a*

development is undertaken in stages after commencement of this DCP (including where earlier stages have been subdivided subsequently from the subject land) the calculation of the 'minimum 10% of units' shall include the units provided in those earlier stages.

The adaptable housing units must be located throughout the development with a variety of outlooks. Access to the upper level of townhouses can be by lift, stair lift, chair lift, inclinor or platform lift or ramp in accordance with the relevant Australian Standards. Any lift must comply with the relevant Australian Standards.

- b) Access: a continuous accessible path of travel in accordance with AS1428 or an inclinor/ lift/ hoist (in accordance with AS1735) as appropriate must be provided between the main street entrance to the residential complex, adaptable housing units, access or car parking spaces, letterboxes, garbage storage area, recreation areas and clothes drying areas.*
- c) Car Parking: At least one accessible parking space for the disabled must be provided for each adaptable housing unit, if a parking space is provided or if it is required pursuant to Chapter B4: Traffic Planning, Vehicle Parking, Circulation and Access or any other Chapter of this DCP. These spaces must be located close to and accessible from the entrance to the adaptable housing units and from the main entrance to the building. The spaces must be attached to the title of the adaptable housing unit in any Strata Plan or Community Title plan. Car parking must be in accordance with the requirements of BCA Section D Part D3.5 and Australian Standard AS/NZS 2890.6:2009 Parking Facilities – Part 6: Off-street parking for people with disabilities..."*

- (b) The Dictionary to BDCP 2014 defines the term "adaptable housing" as follows:

"housing that is designed in such a way that it can be modified easily in the future to become accessible to both occupants and visitors with disabilities or progressive frailties"

- (c) The proposed development comprises 17 dwellings and therefore 2 dwellings are required to be adaptable pursuant to clause B13.2.2 of BDCP 2014. The

Statement of Environmental Effects submitted with the development application (prepared by The Kollektive, dated March 2019) states at page 24 that "Dwelling R1 is capable of compliance with DCP B13 and D1.6.7". Insufficient information has been provided to demonstrate that this dwelling (or a second dwelling as required) comprises adaptable housing within the meaning of BDCP 2014 as required by clause B13.2.2, particularly for occupants and visitors that are unable to use stairs as kitchen and living areas are provided at ground floor level and a single bedroom and bathroom at first floor level, accessed by an internal stairway.

- (d) No accessible car parking spaces are proposed as required by clause B13.2.2 of BDCP 2014.
- (e) Internal pathways are provided from the street frontage to the two western most studio units, neither of which are nominated as adaptable housing units. Thereafter any continuous path of travel would need to be within the internal vehicle driveway and therefore a continuous accessible path of travel is not provided as required by clause B13.2.2 of BDCP 2014.

Seniors Living Policy

- 6. The development application should be refused because the proposed development is inconsistent with the Seniors Living Policy Urban design guidelines for infill development ("**Seniors Living Policy**"), which is adopted by SEPP ARH.

Particulars

- (a) Clause 15 of SEPP ARH provides as follows:

"15 Design requirements

(1) A consent authority must not consent to development to which this Division applies unless it has taken into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy.

(2) This clause does not apply to development to which clause 4 of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies."

- (b) The proposed development does not appropriately respond to the context of the site as required by the Seniors Living Policy on the basis of the issues raised at Contention 1 above.

- (c) The proposed development does not minimise the impacts on neighbouring properties as required by the Seniors Living Policy, given the encroachment into the building height plane and the location of external private open space for the studio apartment directly adjacent to an adjoining dwelling.

Traffic and Access

- 7. The development application should be refused because insufficient information has been submitted to demonstrate that vehicular access can be provided to the site in a manner that will not impact the safety and efficiency of traffic movements on Lismore Road.

Particulars

- (a) The Traffic Impact Assessment (TIA) submitted with the development application does not investigate the turning warrants in accordance with the AUSTROADS Guide to Traffic Management, Part 6: Intersections, Interchanges and Crossings to identify the appropriate access treatment required to cater for the background traffic and the development traffic.
- (b) The impact of the proposed development on the surrounding road network has therefore not been quantified or assessed.
- (c) The Traffic Impact Assessment (TIA) has not fully addressed the impact on traffic efficiency and safety on Lismore Road in order to ensure that the existing level of service of the traffic at the development access point will be maintained or improved, in accordance with the AUSTROADS Guide.
- (d) Insufficient information has therefore been submitted to enable a proper assessment of the application and it has not been demonstrated that the application satisfied clause 6.6 of the BLEP 2014 which states:

"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:

...

- (e) suitable vehicular access."*

No Legal Point of Discharge for Stormwater

8. The development application should be refused because it has not been demonstrated that there is a lawful point of discharge for all stormwater emissions from the site, as required by clause 6.6 of BLEP 2014 and Chapter B3 – Services of BDCP 2014.

Particulars

- (a) Clause 6.6 of BLEP 2014 provides as follows:

“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:

...

(d) stormwater drainage or on-site conservation,

...”

- (b) Clause B2.3.2 of BDCP 2014 provides as follows:

“B3.2.3 Stormwater Management

Objectives

1. *To promote on-site stormwater management practices that support the ‘pre-development’ hydrological regime (surface flow, streams and groundwater).*
2. *To ensure that new development does not reduce the effectiveness of existing drainage patterns (including built infrastructure).*
3. *To minimise the impacts of stormwater runoff from a site on adjoining properties.*
4. *To provide an acceptable level of protection against personal injury and property damage due to localised stormwater runoff.*
5. *To promote on-site retention, detention and infiltration of stormwater.*
6. *To promote stormwater harvesting and other forms of innovative water conservation.*
7. *To promote better integration of stormwater management into development proposals.*

8. *To ensure that on-site stormwater management facilities can be economically maintained, and that adequate arrangements are made for on-going maintenance.*
9. *To provide for the ongoing environmental health of receiving waters;*
10. *To ensure that stormwater management systems protect ground and surface water and other ecological values.*

...

Prescriptive Measures

1. Development Applications

Development applications must contain sufficient information to assess whether the proposed stormwater system is effective and feasible, both within the site and in its connection to the public drainage system.

...

3. Site Drainage

- a) *Site drainage shall be in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and the relevant Australian Standards.*
- b) *For building works, the piped property drainage system is to capture and convey to a lawful point of discharge all stormwater runoff from the following areas of the development site:*
 - i) *impervious areas including roofs, paved areas and driveways*
 - ii) *areas subject to changes to ground level (existing) including excavation or filled areas*
 - iii) *areas where the natural or pre-development overland flow regime is disrupted to the potential detriment of an adjoining property.*
- c) *The development must not introduce, impede or divert stormwater runoff in such a manner as to increase stormwater flow across a boundary onto adjoining property. Concentrated, collected or diverted stormwater flow onto an adjoining property must be at a lawful point of discharge.*

4. Lawful Point of Discharge

- a) *A lawful point of discharge exists at a particular location, if:*
 - i) *The location of the discharge is under the lawful control of Council or other statutory authority from whom permission to discharge has been received; and*
 - ii) *In discharging that location the discharge will not cause an actionable nuisance.*
- b) *Where a lawful point of discharge is not available in the vicinity drainage may need to be constructed and any easements may need to be acquired to direct collected stormwater to a lawful point of discharge. Negotiations with property owners must be undertaken along feasible easement routes to determine whether an easement can be obtained to provide stormwater system that will drain by gravity to a public drainage system. Where easements are proposed over downstream properties for drainage purposes, a letter of consent from the owner(s) of the downstream properties must be submitted with the development application.*

...

- (c) The stormwater plan submitted with the development application, Plan No. D-S-05A, dated February 2019 and annexed to the report titled "Assessment of stormwater requirements for proposed development at 23 Lismore Road, Bangalow" prepared by Lucena Civil & Structural Engineers, indicates a proposed discharge point for the "slow release and overflow" from the on-site detention tank out letting at the south-east corner of the site onto adjoining property to the south.
- (d) The stormwater plan also shows a piped outlet in the north-eastern corner of the site onto the same adjoining property.
- (e) An easement is in place in relation to the north-eastern outlet, through the adjoining property, providing a legal point of discharge to Council's street drainage system in Thomas Street.
- (f) No such easement or legal point of discharge is shown for the south-eastern outlet.
- (g) Clause B3.2.3 in BDCP 2014 requires that where a lawful point of discharge is not available in the vicinity, drainage may need to be constructed and any

easements may need to be acquired to direct collected stormwater to a lawful point of discharge.

- (h) It has not been demonstrated that there is a lawful point of discharge for stormwater from the site, and in that regard that the development satisfies the relevant controls in the BLEP 2014 and BDCP 2014. The development application should therefore be refused.

Public interest

9. The development application should be refused because the proposed development is not in the public interest having regard to the contentions raised above and the submissions made in respect of proposal, which raised concerns with the following matters:

- (a) the intensity of the development;
- (b) incompatibility with the character of the area, particularly the heritage character;
- (c) carparking, increased vehicular movements and vehicular and pedestrian safety;
- (d) encroachment to the building height plane;
- (e) visual impacts;
- (f) no guarantee of long term affordability; and
- (g) impact on adjoining dwellings.

Precedent

10. The development application should be refused because approval of the proposed development will result in an undesirable precedent for similar inappropriate development in the surrounding area.

SIGNATURE

Signature

Capacity

Date of signature



Acting Director Sustainable Environment & Economy

9/7/ 2019



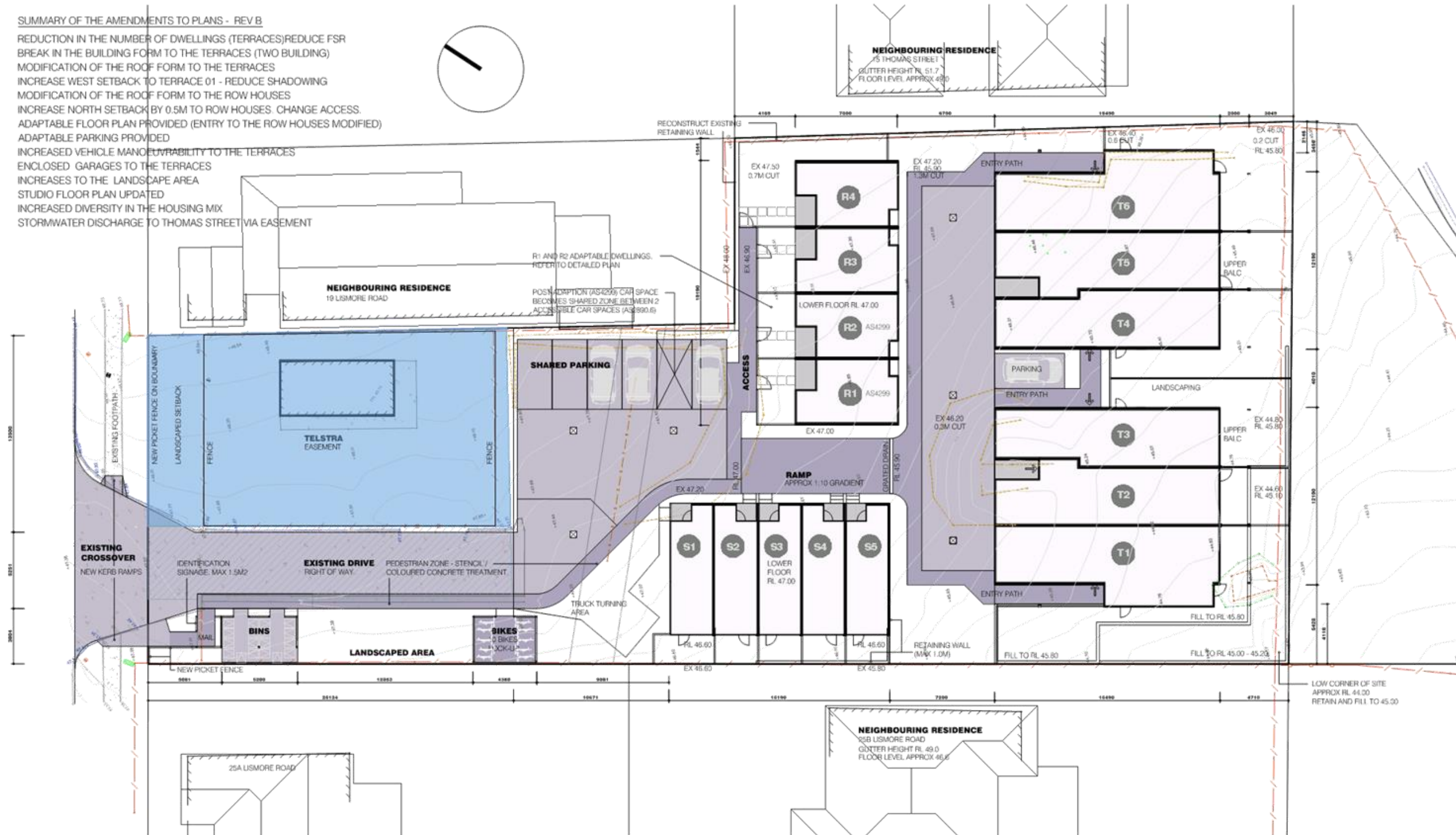




PERSPECTIVE VIEW
TERRACES AND DRIVEWAY



NORTH ELEVATION - TERRACES



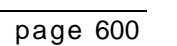
SITE AREA		FSR CALC		UNIT AREAS		S1	S2	S3	S4	S5	R1	R2	R3	R4	T1	T2	T3	T4	T5	T6	TOTALS	AFFORDABLE HOUSING UNITS	
TOTAL SITE AREA	2330	SITE AREA ASSESSED	1998	LOWER FLOOR		23	23	23	23	23	25	25	25	25	46	39	36	36	39	46		STUDIO 5	S5
TELSTRA EASEMENT	332	TOTAL GFA	949	UPPER FLOOR		12	12	12	12	12	27	27	27	27	54	57	51	51	57	54		ROW HOUSE 1	R1
RIGHT OF WAY	125	FSR	0.47:1	TOTAL GFA		35	35	35	35	35	52	52	52	52	100	96	87	87	96	100	949	ROW HOUSE 2	R2
BALANCE	1873			GARAGE											24	17	19	19	17	24		ROW HOUSE 3	R3



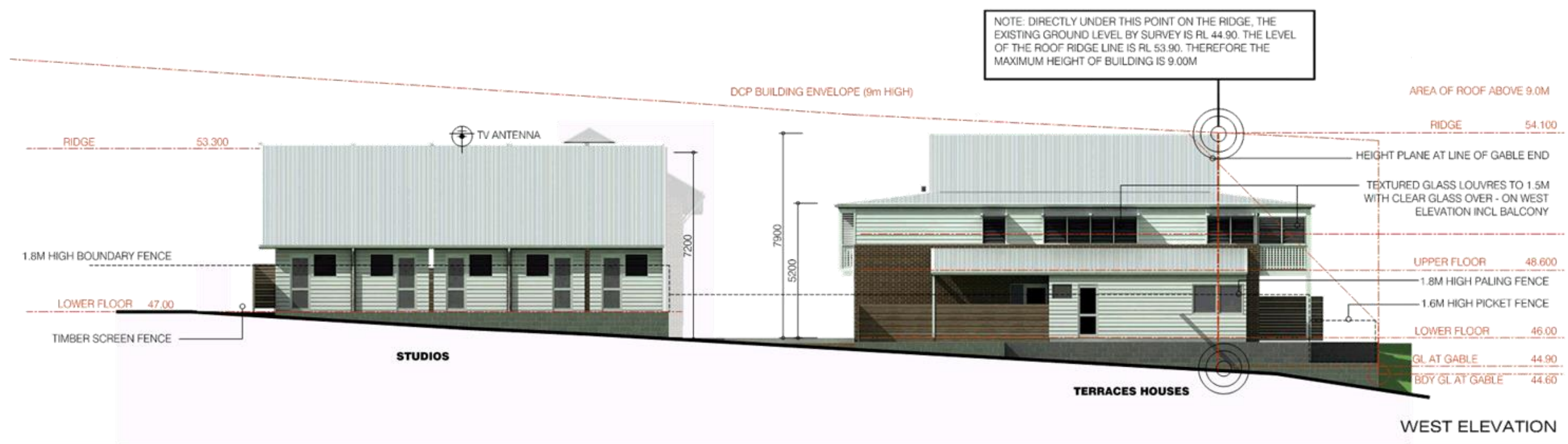
SITE PLAN REV B

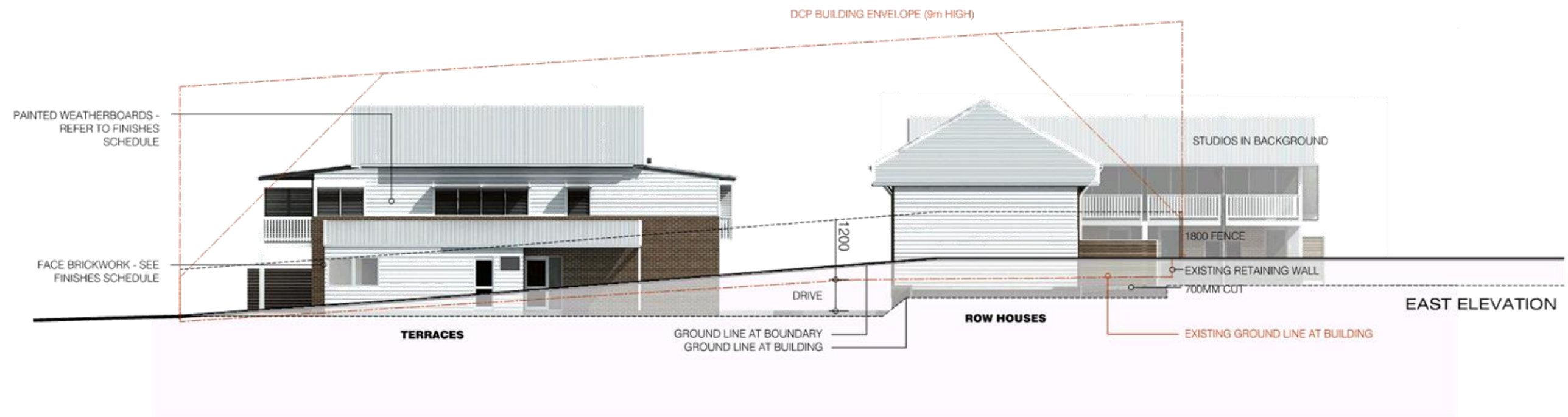
23 LISMORE STREET BANGALOW
1:250 AT A3
10 DEC 2019

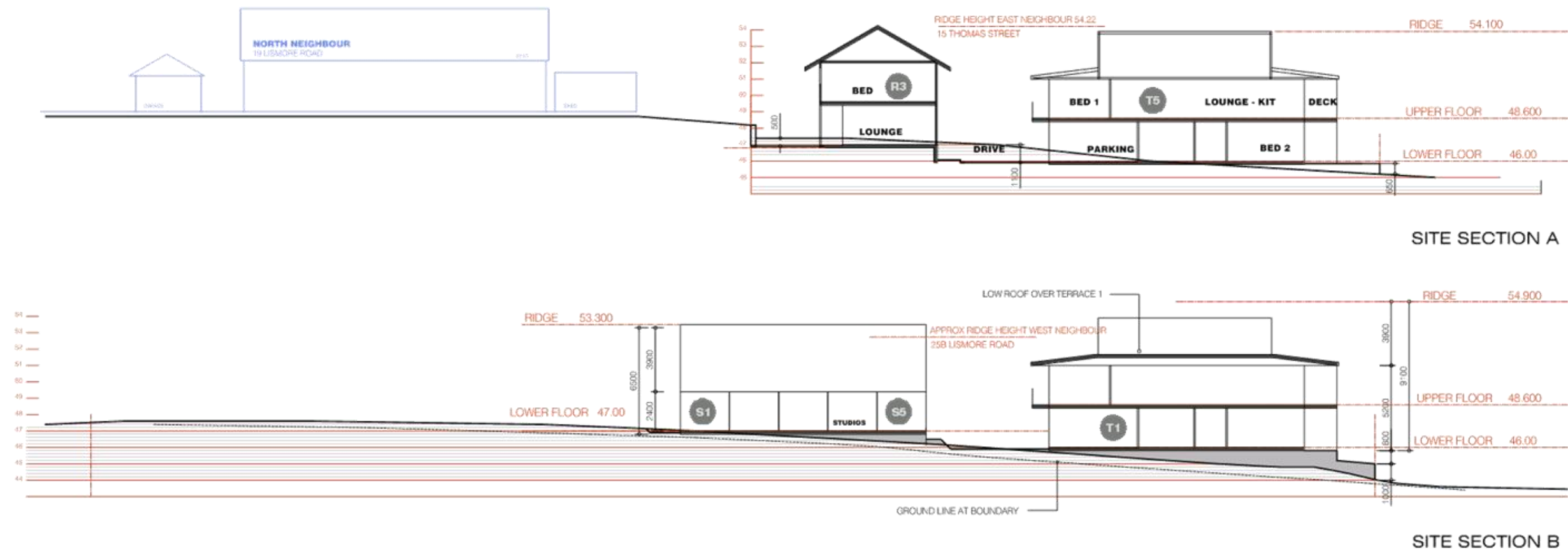
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REVISION B







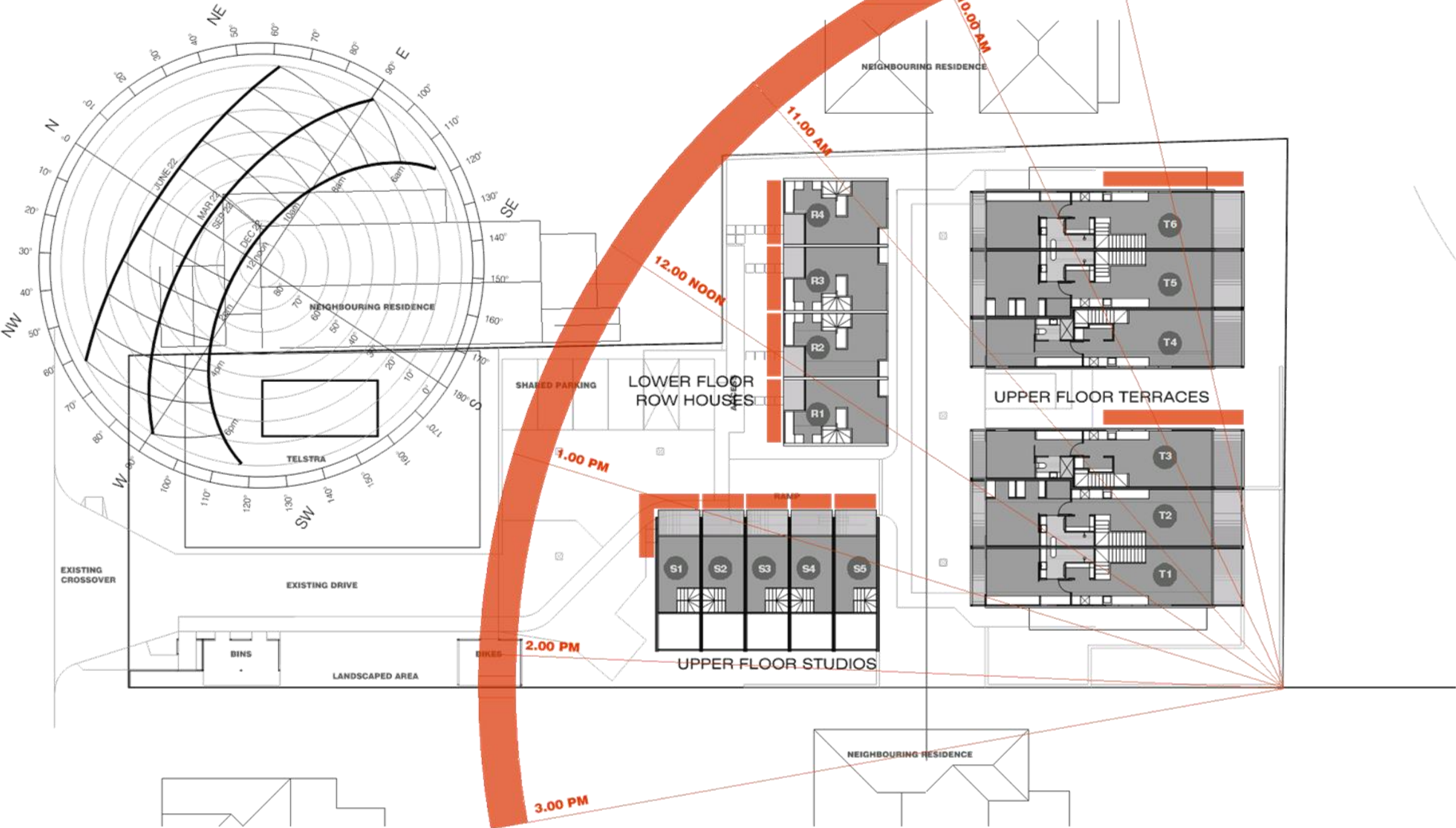




	PAINTED FIBRE CEMENT BOARDS AND ASSOCIATED TRIMS OFF WHITE PAINT DULUX ANTIQUE WHITE USA OR CHINA WHITE CLADDING		POWDERCOATED ALUMINIUM WHITE COLORBOND DULUX VIVID WHITE WINDOW FRAMES		SELECTED TIMBER AUSTRALIAN HARDWOOD SELECTED OIL FINISH - ALLOW TO SILVER SELECTED WALLS AND FENCES
	RED BRICK SELECTED FIRED CLAY BRICKS EXTERNAL WALLS		GREY PAINT DARK GREY PAINT - COLORBOND MONUMENT FASCIA AND OUTRIGGERS		CORRUGATED STEEL ROOFING COLORBOND SHALE GREY ROOFING & FLASHING

WINTER SUN	S1	S2	S3	S4	S5	R1	R2	R3	R4	T1	T2	T3	T4	T5	T6	TOTALS
HRS BTWN 9AM & 3PM	6	5	5	5	5	6	6	6	6	0	0	4	0	0	4	73%

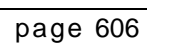
73% (OR 11 DWELLINGS) OF THE PROPOSED DWELLINGS RECEIVED THE REQUIRED SOLAR ACCESS. REFER TO THE SOLAR ACCESS PLAN.

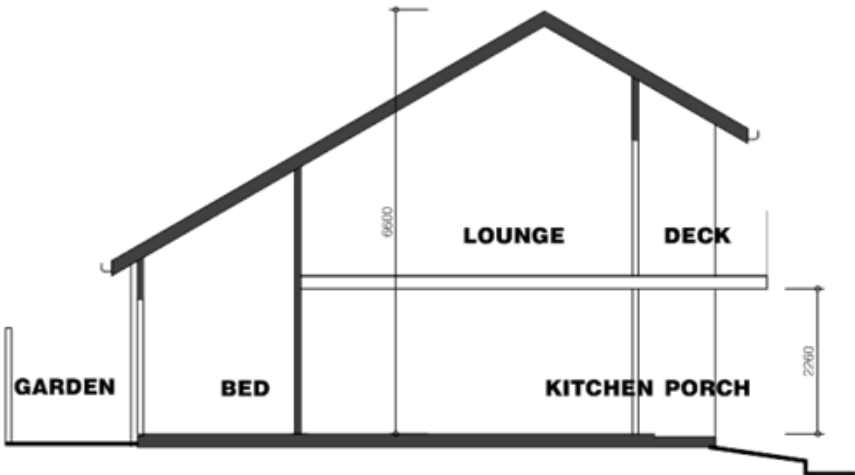


SOLAR ACCESS PLAN

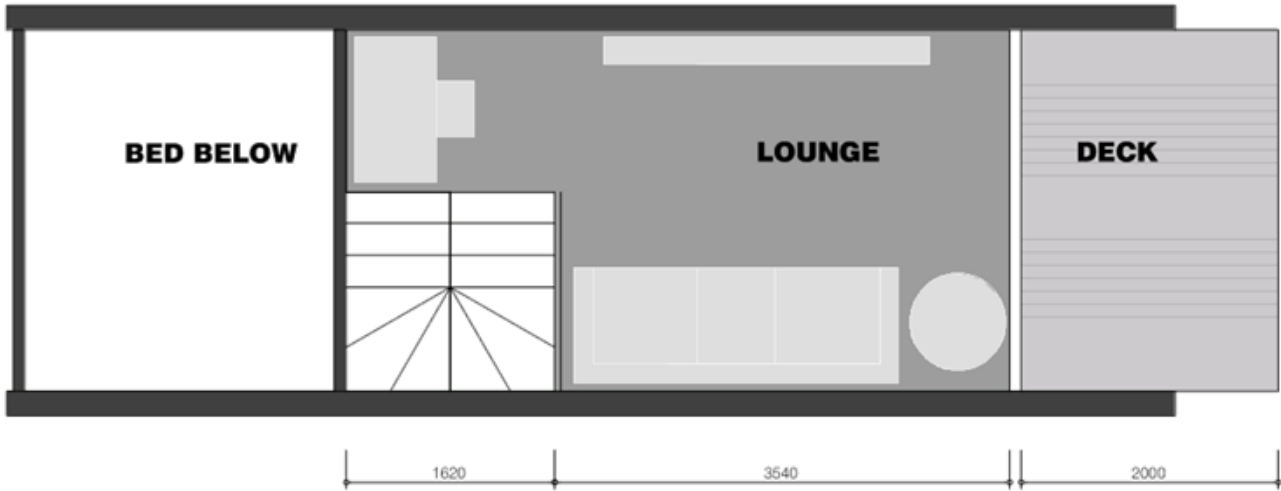
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D-P-03
REVISION B

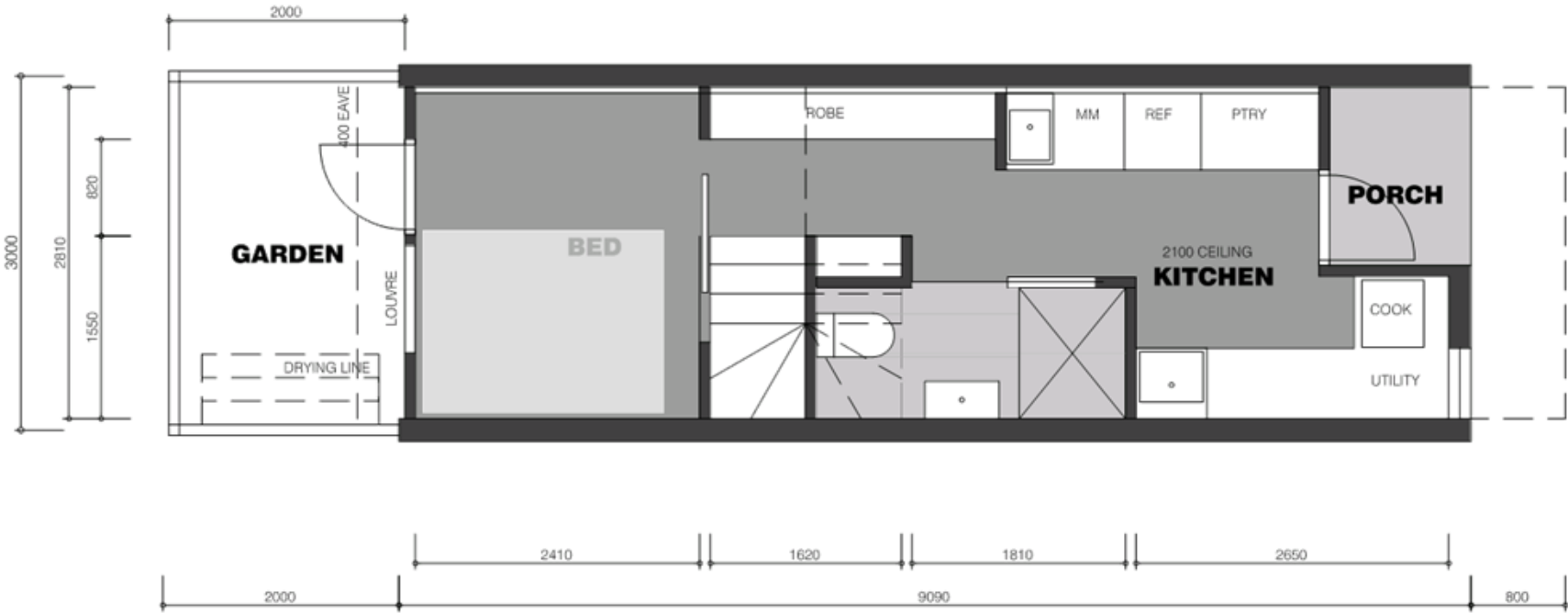


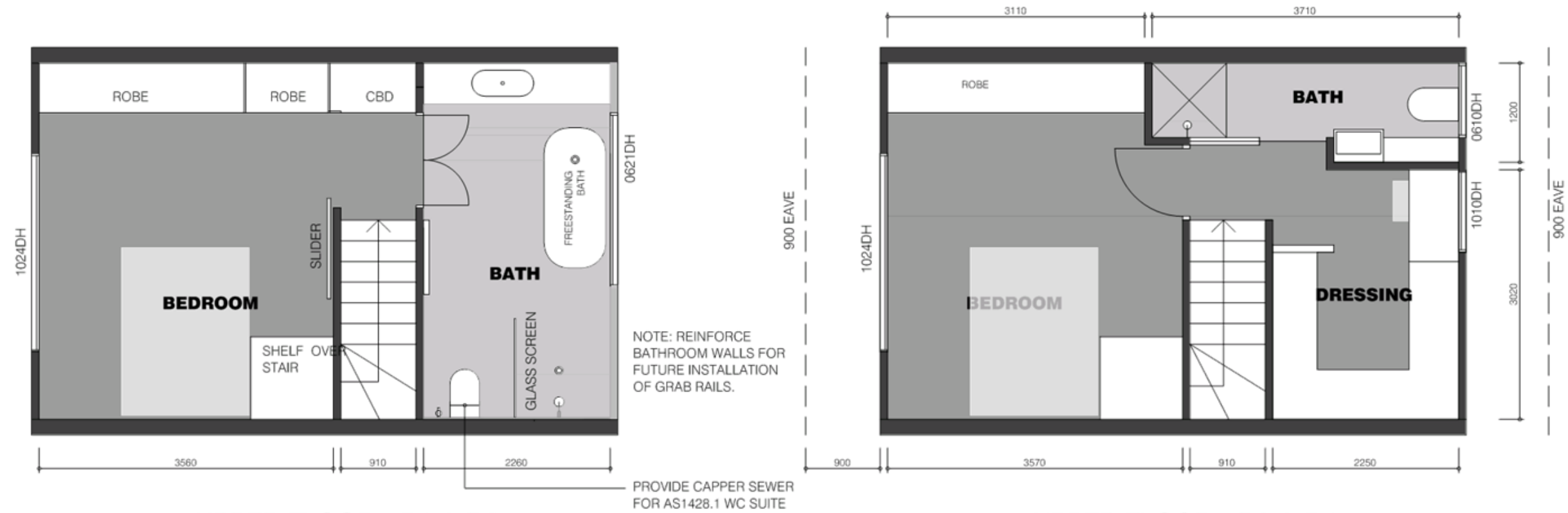


SECTION (1:1100)



UNIT AREAS	
BEDROOMS	1
LOWER FLOOR GFA	23
UPPER FLOOR GFA	12
TOTAL GFA	35
DECK & PORCH	8

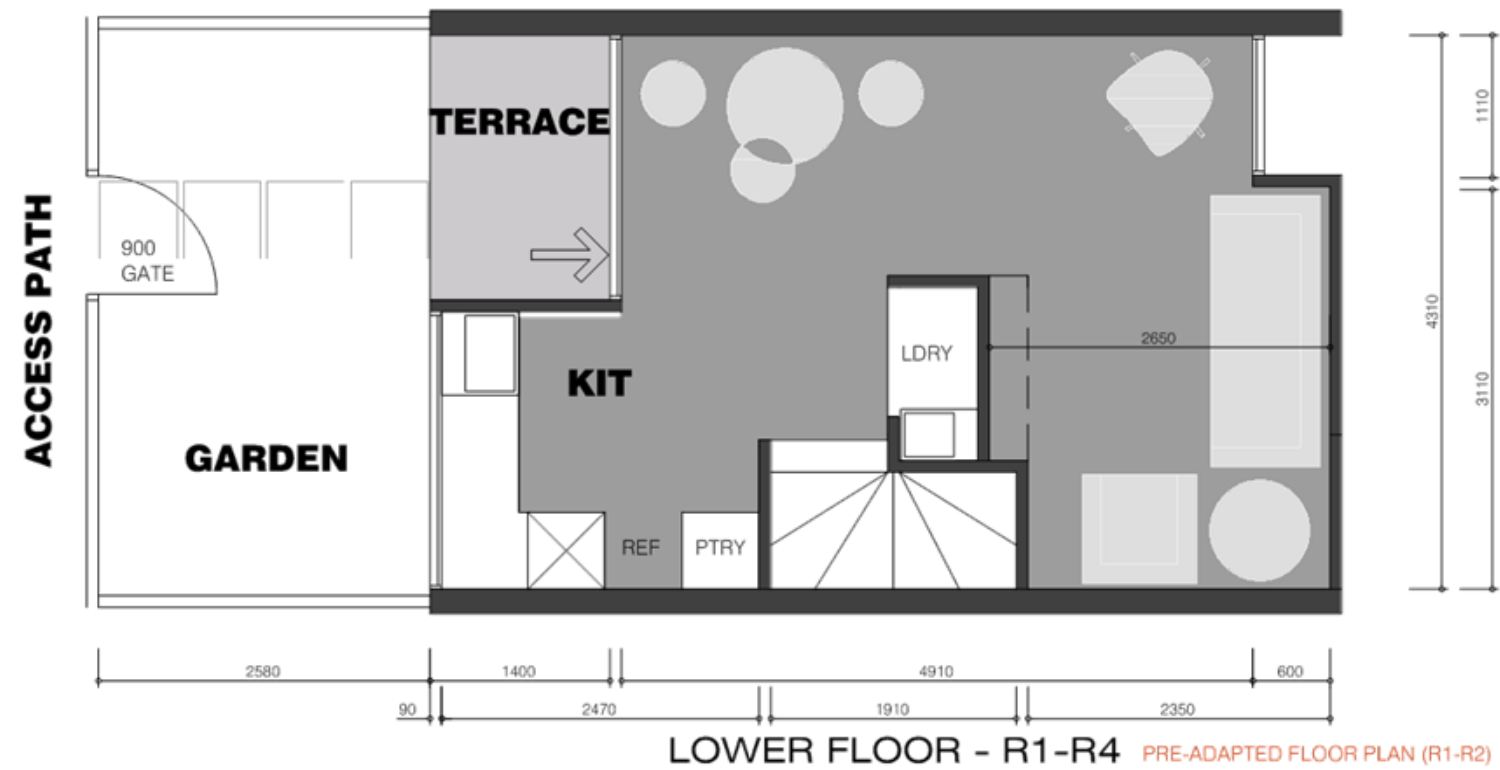




UNIT AREAS

BEDROOMS	1
LOWER FLOOR GFA	25
UPPER FLOOR GFA	27
TOTAL GFA	52
TERRACE	3

NOTE: NO ADDITIONAL WINDOWS IN END UNITS TO AVOID OVERLOOKING



DETAILED PLAN - TYPICAL ROW HOUSE

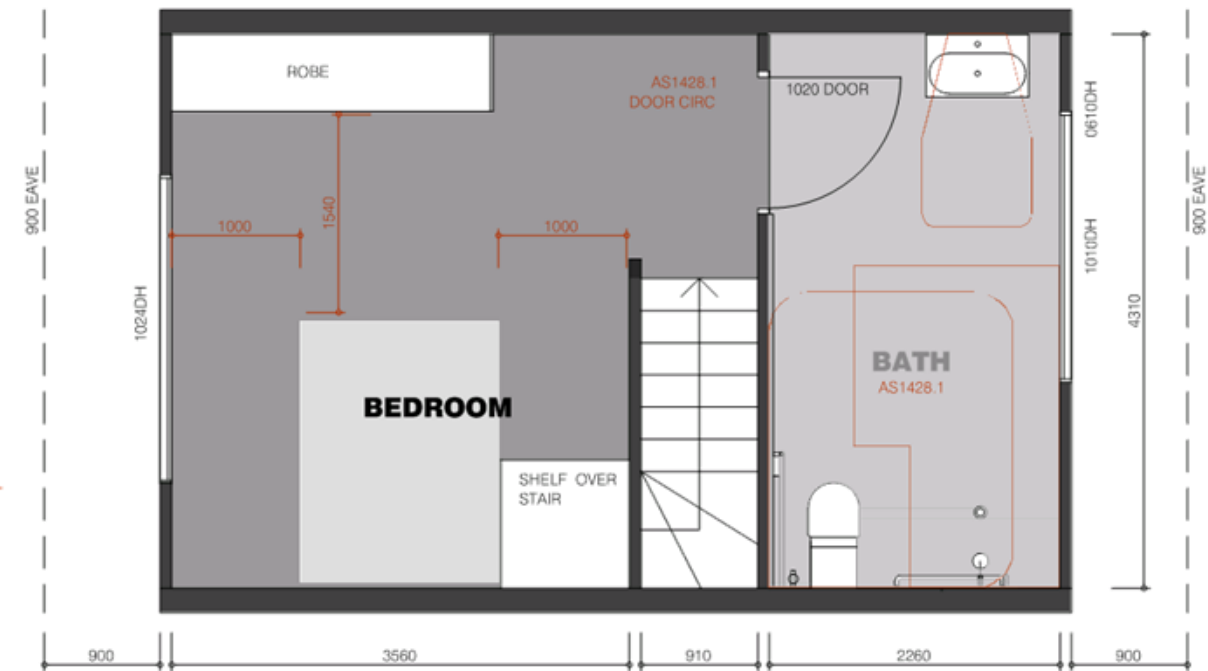
23 LISMORE STREET BANGALOW
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10 DEC 2019

D-D-02
REVISION B

23 Lisimore Street Bangalow				
SUMMARY OF BASIX COMMITMENTS FOR EACH UNIT				
This is a summary of the BASIX Commitments as detailed in the BASIX Certificate. Refer to the CURRENT BASIX Certificate for Complete details. For definitions refer to basix.nsw.gov.au				
WATER COMMITMENTS				
Fixtures				
3 Star Shower Heads	Yes (> 4.5 but <= 6L/min)			
3 Star Kitchen / Basin Taps	Yes	3 Star Toilet	Yes	
Alternative Water				
Minimum Tank Size (L)	3000	Collected from Roof Area (m2)	20	
Tank Connected To:				
All Toilets	No	Laundry W/M Cold Tap	No	
One Outdoor Tap	Yes			
THERMAL COMFORT COMMITMENTS - Refer to TPA Specification on plans				
ENERGY COMMITMENTS				
Hot Water	Solar (Electric Boost) 21 to 25 STCs			
Cooling System	Living	None	N/A	
	Bedrooms	1 Phase A/C	3 Star	
Heating System	Living	None	N/A	
	Bedrooms	1 Phase A/C	3 Star	
Ventilation	1 x Bathroom	Fan ducted to exterior	Manual on/off	
	Kitchen	Fan ducted to exterior	Manual on/off	
	Laundry	Fan ducted to exterior	Manual on/off	
Natural Lighting	Window/Skylight in Kitchen	As Drawn		
	Window/Skylight in Bathrooms/Toilets	As Drawn		
Artificial Lighting (rooms to be primarily lit by fluorescent or LED lights)	Number of bedrooms	All	Dedicated	Yes
	Number of Living/Dining rooms	All	Dedicated	Yes
	Kitchen	Yes	Dedicated	Yes
	All Bathrms/Toilets	Yes	Dedicated	Yes
	Laundry	Yes	Dedicated	Yes
	All Hallways	Yes	Dedicated	Yes
OTHER COMMITMENTS				
Outdoor clothes line	Yes	Ventilated refrigerator space	Yes	
Stove/Oven	Electric cooktop & electric oven			
Alternative Energy	Photovoltaic System: 1 kW to R1 & R2 only			
January 2019			BSA Reference: 14538	
Building Sustainability Assessments		Ph: (02) 4962 3439		
enquiries@buildingsustainability.net.au		www.buildingsustainability.net.au		
Important Note				
The following specification was used to achieve the thermal performance values indicated on the Assessor Certificate and takes precedence over any other specification. If different construction elements are applied then the Assessor Certificate is no longer valid.				
Thermal Performance Specifications (does not apply to garage)				
External Wall Construction		Added Insulation		
Brick Veneer & Lightweight		R2.0		
Internal Wall Construction		Added Insulation		
Plasterboard on studs		None		
Cavity Brick (party walls)		R1.0		
Ceiling Construction		Added Insulation		
Plasterboard		R3.5 to ceilings adjacent to roof space		
Roof Construction		Colour	Added Insulation	
Metal		Any	Foil + R1.0 blanket	
Floor Construction		Covering	Added Insulation	
Concrete		As drawn	None	
Timber		As drawn	R1.0 to floors where open below to T1 & T8	
Windows		Glass and frame type	U Value	SHGC Range Area sq m
ALM-001-01 A		Aluminium Type A Single clear	6.70	0.51 - 0.63 As drawn
ALM-002-01 A		Aluminium Type B Single clear	6.70	0.63 - 0.77 As drawn
Type A windows are awning windows, bifolds, casements, lift 'n' turn windows, entry doors, french doors Type B windows are double hung windows, sliding windows & doors, fixed windows, stacker doors, louvers				
Skylights		Glass and frame type	U Value	SHGC Area sq m
U and SHGC values are according to AFRC. Alternate products may be used if the U value is lower and the SHGC is within the range specified				
External Window Shading (eaves, verandahs, pergolas, awnings etc)				
All shade elements modelled as drawn				
Ceiling Penetrations (downlights, exhaust fans, flues etc)				
No adjustment has been made for losses to insulation arising from ceiling penetrations.				

BEDROOM MODIFICATIONS:
1. REMOVE PART OF ROBE AND BEDROOM ENTRY DOOR

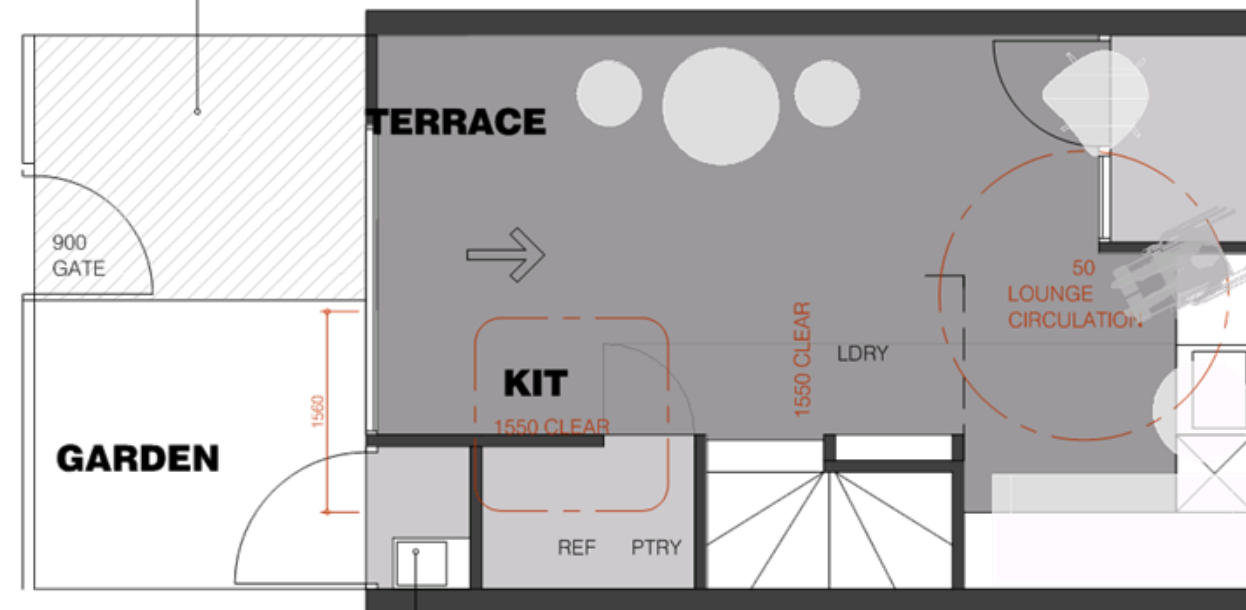
BATHROOM MODIFICATIONS:
1. CHANGE DOOR
2. REMOVE FREESTANDING BATH
3. REMOVE SHOWER SCREEN IF REQD
4. REPLACE VANITY WITH COMPLIANT WALL HUNG MODEL
5. REPLACE WC WITH COMPLIANT PWD MODEL
6. ADD GRAB RAILS AS REQD



UPPER FLOOR - R1 & R2
POST-ADAPTED FLOOR PLAN

PAVE FROM TERRACE TO ENTRY GATE

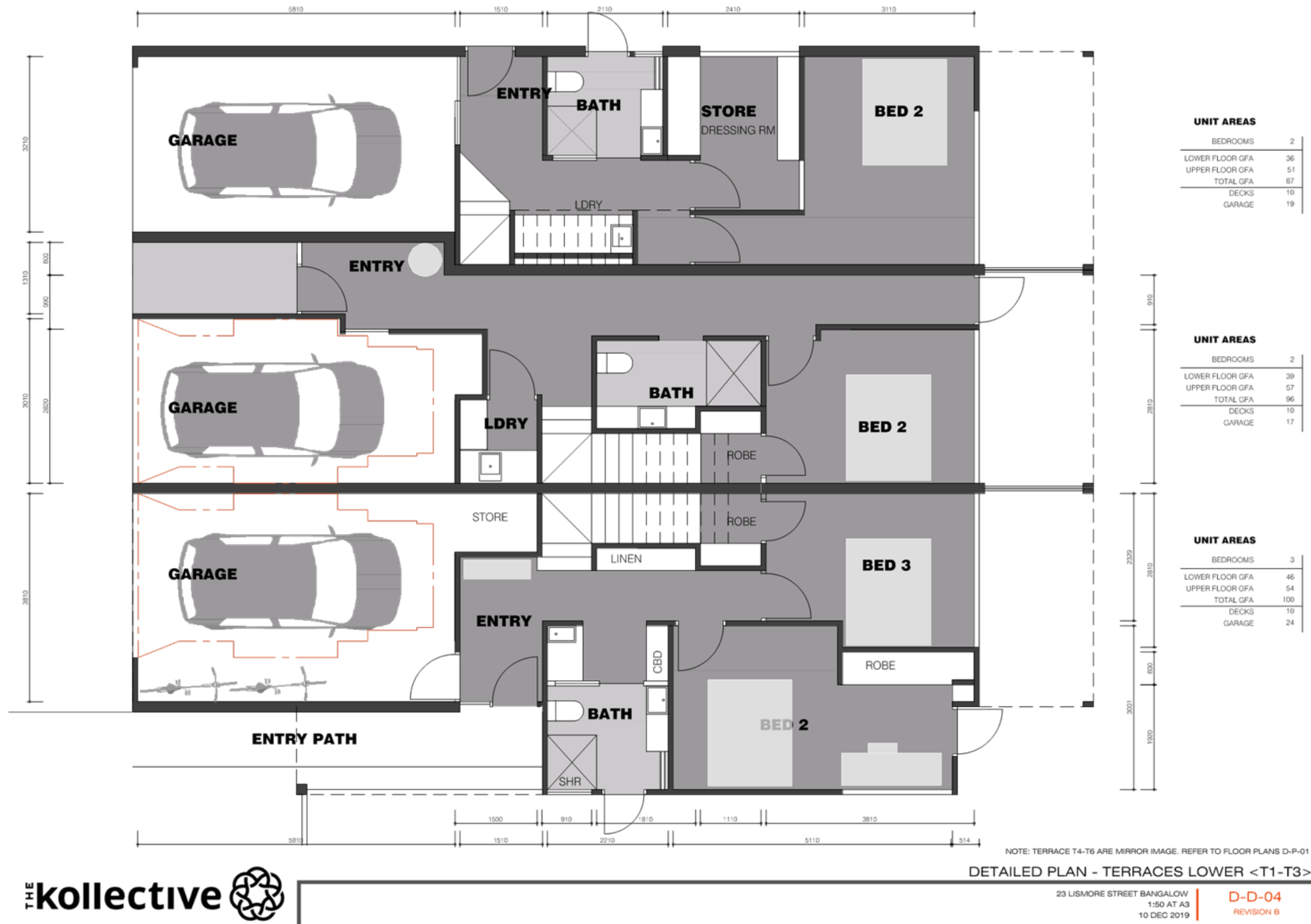
ACCESS PATH



LOWER FLOOR - R1&R2
POST-ADAPTED FLOOR PLAN

REMOVABLE CABINETRY. NO MODIFICATIONS REQD

DETAILED PLAN - ROW HOUSE - AS4299 ADAPTABLE





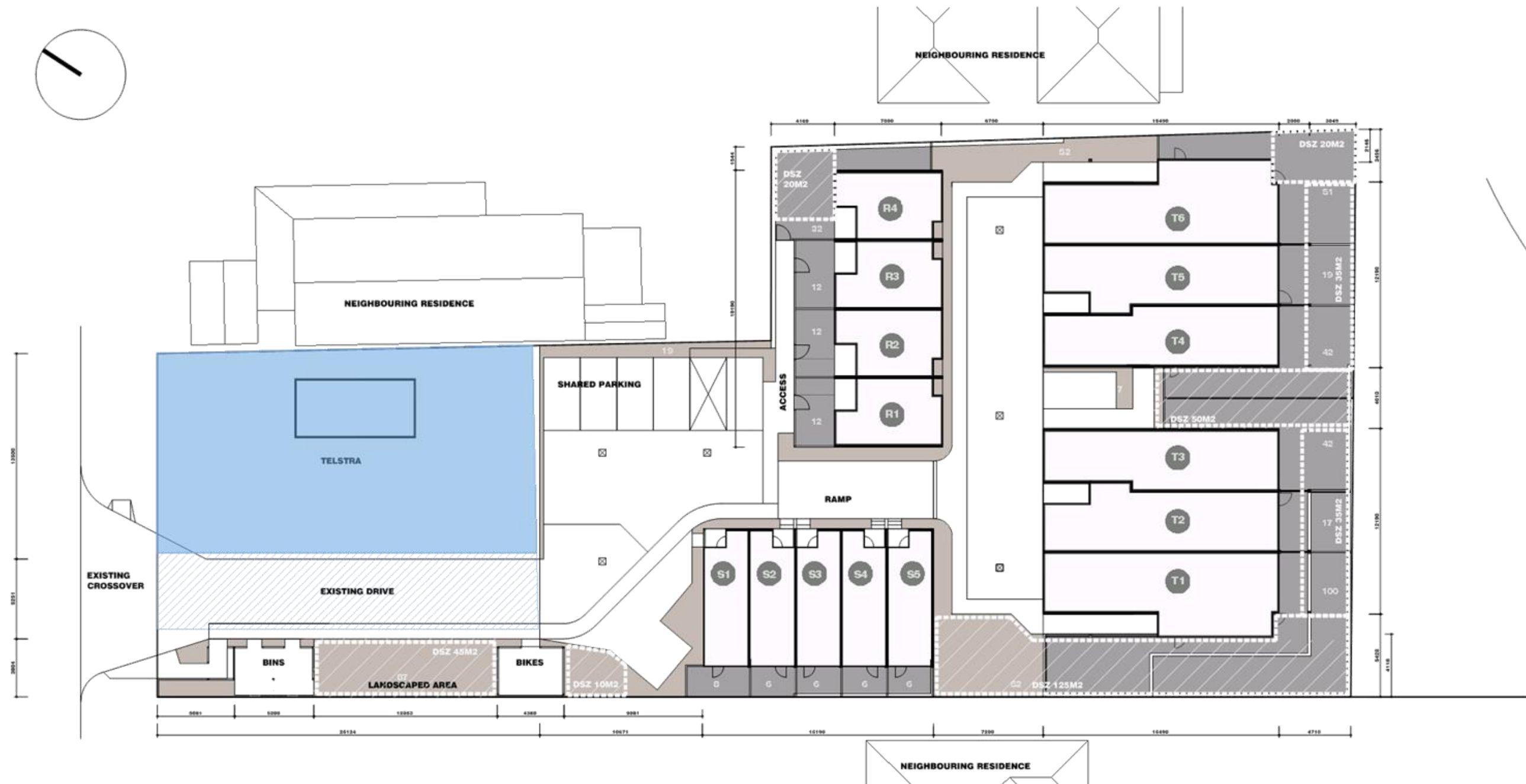
NOTE: TERRACE T4-T6 ARE MIRROR IMAGE. REFER TO FLOOR PLANS D-P-02

DETAILED PLAN - TERRACES UPPER <T1-T3>



23 LISMORE STREET BANGALOW
1:50 AT A3
10 DEC 2019

D-D-05
REVISION B



PRIVATE OPEN SPACE	S1	S2	S3	S4	S5	R1	R2	R3	R4	T1	T2	T3	T4	T5	T6	TOTALS
TERRACE	2	2	2	2	2	3	3	3	3							
BALCONY	6	6	6	6	6	-	-	-	-	8	8	8	8	8	8	
LANDSCAPED AREA	9	7	7	7	7	12	12	12	34	100	17	42	42	19	51	378
PRIVATE OPEN SPACE	17	15	15	15	15	15	15	15	37	108	25	50	50	27	59	

LANDSCAPED AREA

SITE AREA	2330	PROVIDED	REQD SEPP
TELSTRA EASEMENTS	332		
SITA AREA ASSESSED	1998		
PRIVATE LANDSCAPED	378		
COMMON LANDSCAPED	217		
TOTAL LANDSCAPED AREA	604	30%	30%
DEEP SOIL ZONES DSZ = MIN 3.0M WIDE	340	17%	15%









Heritage Referral Assessment

DA 10.2019.161.1



10 May 2019

Lot A DP 376877 and Lot 2 DP 1214341
Bangalow Heritage Conservation Area
Byron Shire LEP 2014

Prepared by
CLARENCE HERITAGE
For Byron Shire Council.

Officer:	Rob Van Iersel, Byron Shire Council
Date:	10 May 2019
Reference	DA 10.2019.161.1
Proposal	Development under SEPP (Affordable Rental Housing) 2009 for 17 medium density residential units and 14 car parking spaces.
Plans:	The Kollektive; Plans, SEE and supporting documentation Feb 2019, SOHI by Urbis. Feb 2019.
Property	23 and 59 Lismore Rd, Bangalow, NSW.
Photos	Deborah Wray

1. Introduction

This application has been lodged under the provisions of SEPP (Affordable Rental Housing) 2009. The SEPP includes a critical requirement for Council to consider whether the design of the development is compatible with the character of the local area.

16A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

This report has reviewed the SEE and Statement of Heritage Impact (SOHI) submitted with the application, and considers the potential impacts of the proposal on the heritage significance of the Bangalow Conservation Area which underpins this character.



Extract from NSW Planning Portal showing subject site within Bangalow Heritage Conservation Area and heritage items in the vicinity of the site. Accessed 30/04/19.

2. Heritage Status and policies

The site is located within the Bangalow Heritage Conservation Area under Byron Shire LEP 2014. The Conservation Area has assessed historic, aesthetic and social significance and the summary statement of significance is as follows:

“A rare, largely intact, early twentieth century village built in a picturesque setting of green hills and sub tropical vegetation, with a main street of high quality public and commercial buildings grouped on both sides and an unusually steep sloping street.

The village area has a high concentration of quality dwellings, public buildings, streets, back lanes, street trees and landscaping which taken together illustrate an identifiable pattern of domestic, industrial and commercial settlement in Bangalow by pioneering settlers and a pattern of development of civic infrastructure.”

Extract SHI Inventory 1260056.

Physical Description

“The area of Bangalow township identified on the attached diagram is characterised by substantial single and two storey commercial and residential buildings set amongst rich subtropical vegetation. The predominant building materials are locally-produced weatherboards and red brick. The buildings feature an eclectic mix of late nineteenth and early twentieth century styles with characterful features including gables and parapets, steep gable roof pitches, tall brick chimneys and fireplaces, mixed fenestration styles, traditional building layouts, various architectural period styles (both private and public), setbacks from the street, boundary fences, public landscaping (various local and exotic species and styles of planting) and driveway constructions, all consistent with the period 1890 – 1940”.

Assessment Criteria

Criteria a) Shows evidence of early settlement of Bangalow by pioneers, including a pattern of settlement characteristic of new settlers in a largely undisturbed landscape which came to be known as The Big Scrub, and whose European settlers depended on a now locally defunct mode of transport.

Criteria b) Is associated with a group of early settlers and civic officials of Bangalow and the Shire, including police, Shire Councillors, Court officials, teachers, doctors and nurses, as well as business and tradespersons.

Criteria c) Bangalow is a picturesque township in a green valley setting. The main street, which is the focus of the town, is unusually steep with verandahed premises on both sides. The top end is dominated by the large Roman Catholic Church on the hill and at the other end the picturesque Anglican Church at the end of Byron Street closes the vista.

Criteria d) Shows evidence of priorities of early settlement (food and shelter, law, health, public order, recreation), as well as features of early domestic and civic design.

Criteria f) Provides evidence of a domestic way of life now defunct. Dwellings are of various styles and standards, indicative of social status, and these pre-date by several decades current domestic architecture. Lot sizes as a group indicate a lifestyle in which value was placed on the ability to be self-supporting (space to maintain vegetable patches and/or market gardens, and domestic animals such as milch cows and fowls, which are now a rare feature of urban settlement).

Criteria g) Is notable for its location, the centre of the township, its size and the fact that the group is identified with a particular period of settlement.



Integrity / Intactness: The quality and cohesion of the built environment in this area is variable, but the group still retains a character (such as in traditional plot sizes and setbacks, gabling styles, building materials such as corrugated sheet metal, horizontal weatherboards, timber framed window joinery and low fences, as well as brick and stone construction, setbacks on all four sides of new or existing buildings and extensions, and scale and bulk), identifiable with early settlement of Bangalow.

1260056 Byron Shire Heritage Inventory

Heritage significance is a key element of the character of the area. It is important to consider the significance of the Conservation Area context not only in relation to existing heritage items but also in relation to vacant land and non-listed buildings and views and vistas. The Byron Shire DCP 2014 sets out detailed provisions which require new development to be sympathetic to the significance and setting of the Bangalow heritage conservation area.

3. Site Observations

A site inspection was carried out on 9 May 2019. The site comprises a sloping vacant lot of 2330m² situated with access from Lismore Rd. Most of the site area and proposed development lies to the rear of the developed frontage along the Lismore Rd. The site also has a streetscape view to Thomas /Charlotte Street separated by a strip of agricultural land.

<p>Lismore Rd in this location forms the southern gateway of the town entry to Bangalow. The streetscape is composed of a group of predominantly historic, single storey, traditional hipped and gabled roofed dwellings on traditional sized lots, punctuated by the historic former Temperance Hall.</p> <p>The buildings are all set back from the street with landscaped grounds and low fences. The road reserve contains a formal footpath edged by grass verge, kerb and guttering.</p>	 
<p>At the top of the hill, the group is anchored by the George Reading building (heritage item).</p>	
<p>Blanch's house (heritage item) anchors the southern end of the group.</p>	

This pattern is interrupted by the gap in the built frontage, and by the non-contributory Telstra Exchange buildings.



On the western side of the road, established landscaping and a wide grassed verge adjoining the railway line provides a soft landscaped edge to the main road.



<p>To the rear of the site, the land lies in proximity to Thomas and Charlotte Streets, a relatively recent subdivision which includes relocated timber dwellings and new infill development including several two storey homes.</p> <p>The built character of the new subdivision has utilised the timber and iron material palette, and features gabled roofs of traditional pitch, and joinery details which are consistent with the built character of the Bangalow village setting.</p>	
<p>15 Thomas Street, a historic timber dwelling which was relocated from Byron Bay adjoins the northern side of the site.</p>	
<p>View from subject site towards the dwelling at 15 Thomas Street which comprises the relocated historic dwelling to the front and a new pavilion to rear.</p>	

Two adjoining dwellings on 25 Lismore Rd of traditional form and materials adjoin the southern side of the site.



4. Review of Proposal

Proposed buildings

Three x two storey buildings are proposed, comprising the following:

- 5 x studios (S1-S5) 32m2 internally
- 4 x 1 bed Dwellings (R1-R4) 52m2 internally
- 8 x 2 bed dwellings (T1-T8) two storey terrace building 93m2 internally

Height and Bulk

The Studio and Row House buildings are smaller in footprint than the traditional dwellings in the surrounding streetscapes. Given their proposed siting with a 35m or greater setback from Lismore Rd and the slope of the site, the visual impact of these two storey buildings is likely to have little or no impact upon to the town entry. The buildings are set behind the proposed terrace building which has its primary orientation towards Thomas Street /Charlotte Street.

The proposed two storey terrace building (T1-T8) is larger in bulk than most buildings in the surrounding Conservation Area precinct. It has a frontage of 32m which contrasts with the scale and bulk and frontage of the adjoining single dwellings on either side of the land at 15 Thomas Street and 25 Lismore Rd.

Two storey terraced buildings are a noted built element of the historic commercial main street precinct, but are not representative of the residential areas within the Bangalow Conservation Area, which are characterised by predominantly single, or one and half, storey buildings stepping down the hill and some two storey dwellings.

Two storey development is not out of character in the Charlotte Street residential area, opposite the site which forms part of the character of the surrounding locality. This subdivision is composed of predominantly two storey detached dwellings, although much of this is located outside the boundary of the Heritage Conservation Area.

The ridge height of the proposed terrace building is not substantially higher than the ridge height of the dwelling at 15 Thomas Street, due to the lower level of the subject site. However a building of two storey height with a frontage of 32m, is a departure from the character of the locality, particularly in terms of its relationship to the size of adjoining dwellings.

Roof form and pitch

Pitched roofs of approximately 30 degrees, with eaves to gable ends, are in keeping with local traditional and new infill buildings, and reflect the built character of the heritage conservation area.

Materials

Weatherboard style materials, combined with red brick are proposed as a noted material elements of the heritage conservation area. The proposed weatherboard cladding and verandah elements will integrate well with the timber cottages in this precinct.

Windows

White/light framed windows are characteristic of the locality. Vertically proportioned openings to lower floors relate well to the style of the building but are not highly visible, setback under the verandahs.

Fences

A flat topped picket fence is proposed which is sympathetic to the heritage streetscape character of Lismore Rd. Currently there is a non-contributory security wire fence to Lismore Rd and the picket fence will sit on the front boundary and improve this streetscape view. Side boundary fencing includes an existing retaining wall and additional timber fencing and landscaping which is an important element of the Conservation Area.

Materials and Colours

Cladding Dulux '*Antique White*' or '*China White*'

Selected fired clay red bricks.

Aluminium Window Frames- Vivid White

Hardwood timber selected walls and fences allowed to silver

Corrugated steel roofing - Shale Grey

The proposed external finishes are considered acceptable for new infill development within this site context and not are likely to have an adverse impact on the aesthetic significance of the Conservation Area.

5. Heritage Assessment

Criterion a) Historical significance:

Criteria a) Shows evidence of early settlement of Bangalow by pioneers, including a pattern of settlement characteristic of new settlers in a largely undisturbed landscape which came to be known as The Big Scrub, and whose European settlers depended on a now locally defunct mode of transport.

Comment- The subject site does not form part of the traditional pattern of settlement along Lismore Rd, being an irregularly shaped rear portion of a former Telstra site. The proposal will not alter a traditional grid layout by amalgamation of lots or narrow subdivision of the frontage. There are no built or known archaeological elements of historical significance on the subject lot and no changes are proposed to the existing lot boundaries. The proposal will not alter an element of historical significance. It is considered that the proposal would not have an adverse impact upon Historical Significance.

Criterion b) Historical (Social /Associative) Significance

Is associated with a group of early settlers and civic officials of Bangalow and the Shire, including police, Shire Councillors, Court officials, teachers, doctors and nurses, as well as business and tradespersons.

Comment- Little readily available information is available in relation to the existing site and no further research was undertaken through the submitted SOHI. The land may have formed part of the land holding associated with George Reading, a notable local identity, who was closely connected with the dairy industry, a director of the Norco Dairy Co-operative and resided in the dwelling at 27 Lismore Rd and owned the building at the top of the group, both heritage items. A search of land titles would need to be carried out to research whether there is such a connection.

Criterion c) Aesthetic significance

Bangalow is a picturesque township in a green valley setting. The main street, which is the focus of the town, is unusually steep with verandahed premises on both sides. The top end is dominated by the large Roman Catholic Church on the hill and at the other end the picturesque Anglican Church at the end of Byron Street closes the vista.

Comment- "An item having (aesthetic) value is significant because it demonstrates positive visual or sensory appeal, landmark qualities of creative or technical excellence." (Ref 5)

The proposed development is not likely to have any potential adverse impacts upon the aesthetic values, views or setting of the main town entry views and vistas of the Conservation Area as viewed from Lismore Rd.

With regard to the streetscape view of the development from Thomas Street, the proposed Terrace building is a departure from the regular pattern of development in the Conservation Area, particularly when compared to the scale of neighbouring buildings, and is likely to have a potential impact upon the aesthetic significance and setting of this part of the Conservation Area.

Criterion d) Social Significance

Shows evidence of priorities of early settlement (food and shelter, law, health, public order, recreation), as well as features of early domestic and civic design.

Comment-Whilst previously used for a public purpose, the subject site is not considered to meet this criteria.

Criterion f) Representativeness

Provides evidence of a domestic way of life now defunct. Dwellings are of various styles and standards, indicative of social status, and these pre-date by several decades current domestic architecture. Lot sizes as a group indicate a lifestyle in which value was placed on the ability to be self-supporting (space to maintain vegetable patches and/or market gardens, and domestic animals such as milch cows and fowls, which are now a rare feature of urban settlement).

Comment- The subject site is not considered to meet this criteria.

Criteria g) Rarity

Is notable for its location, the centre of the township, its size and the fact that the group is identified with a particular period of settlement.

Comment- The subject site comprises a non-regular allotment and former Telstra site which sits to the rear of the established pattern of historic development along Lismore Rd and contains no built items of historic interest within the precinct.

Integrity/Intactness

The quality and cohesion of the built environment in this area is variable, but the group still retains a character (such as in traditional plot sizes and setbacks, gabling styles, building materials such as corrugated sheet metal, horizontal weatherboards, timber framed window joinery and low fences, as well as brick and stone construction, setbacks on all four sides of new or existing buildings and extensions, and scale and bulk), identifiable with early settlement of Bangalow.

Comment- The site is located within a precinct which demonstrates these values.

6. Summary

The SOHI by Urbis and the SEE by Kollektive have been carefully considered, which outlines the design rationale for the proposal. This vacant site in close proximity to the town centre offers an opportunity for sympathetic infill residential development, and the topography of the site will effectively minimise the visual impact of two storey height of the development when viewed from the major town entry.

As outlined in point 4.2, the main issue from a heritage perspective, is the potential impact of the proposed Terrace building on the aesthetic values of the Conservation Area as viewed from Thomas Street, and its visual relationship to the adjoining development.

Whilst two storey terraces are a noted built element of the historic commercial main street precinct, they are not representative of the residential areas within the Bangalow Conservation Area. Division of this proposed building into smaller elements, and/or incorporation of a single storey element at each end, is suggested, to make it more harmonious to the built character of the area.

Otherwise, the design, roof forms material palette and landscaping aspects are considered to have been thoughtfully addressed with regard to the site and setting of the Bangalow Heritage Conservation Area and the remaining buildings are not considered likely to have an adverse impact upon the assessed significance of the Bangalow Heritage Conservation Area.

References

1. *Australia ICOMOS The Burra Charter - Australia ICOMOS Charter for the Conservation of Places of Cultural Significance 2013*
2. Byron Shire Local Environmental Plan 2014.
3. Byron Shire Development Control Plan 2014.
4. Byron Shire Council, Byron Community Based Heritage Study Co-ordinators Report 2007
5. Department of Environment and Heritage State Heritage Inventory- Heritage Item -SHI 1260056 data sheet. Bangalow Conservation Area.
6. Department of Environment and Heritage State Heritage Inventory- Heritage Item -SHI 1260085 data sheet. George Reading Building.
7. Department of Environment and Heritage State Heritage Inventory- Heritage Item -SHI 1260086 data sheet. Blanch's House. (home of George Reading)



CLARENCE HERITAGE

Deborah Wray

B.A Hons, M.P.I.A. M.ICOMOS

Heritage Advisor

PO Box 1759, GRAFTON, NSW 2460

E. clarenceheritage@gmail.com

M 0427 425558

P 02 66 444 000

ABN 49 678 627 689

Van Iersel, Rob

From: someone@bigpond.net.au
Sent: Tuesday, 21 January 2020 3:49 PM
To: submissions
Subject: 10.2019.161.1 ~ □ Opposition to the Revised Plans for Development at 23 Lismore Street Bangalow

Good Afternoon,

Thank you for considering my thoughts which *oppose* the above revised DA:

- An important survey by Deloitte of more than 2000 global executives has found that a new form of capitalism is emerging, one that considers a broader group of stakeholders and measures societal impact alongside financial performance.
- **Given the above trend**, the revised proposal is still too large and dense considering the size of the block, and impacts way too many “broader stakeholders”, not just immediate neighbours; many Bangalow residents have spent 100s of hours over many years crafting a clear vision for Bangalow. It is on solidly on record that they wish to preserve the historic, small, heritage town atmosphere.
- If my calculations are correct, there will be **23 bedrooms** on the block. That’s potentially **46 people**, and their cars. The block, surrounded by single-story family homes, is way too small for such a large population of humans.
- There is still not enough green space (including vegetable gardens) for future residents to enjoy.
- The density does not match the surrounding architecture or landscape. People only live on top of each other like this in cities because they have no other choice.
- A similar-sized block was recently developed in Rifle Range Road, Bangalow. There are 5 small homes, not 15.
- The 10 year moratorium on holiday letting is unacceptable. It should be perpetual.

For the reasons above, I strongly object to this development.

Thank you for listening.

Regards,
Sandy Loyall

P.S. For the developers: I would love to see revised plans showing 4 or 5 units surrounded by plenty of green-space. And, as an alternative, rather than in the middle of a heritage precinct, this development would be infinitely more suited to a block adjoining the Bangalow Industrial Estate, only a short bike-ride into town.

20 Rifle Range Road, Bangalow NSW 2479 AUSTRALIA
(0408) 697 367

Van Iersel, Rob

From: Bronwyn <bbarkla@gmail.com>
Sent: Thursday, 2 January 2020 12:38 PM
To: Development Support Officer; Van Iersel, Rob
Subject: Re: Re-Notification of Development Application - 10.2019.161.1 - 23 Lismore Road, Bangalow PR45640

Hi,

I have looked at the new plans and still feel strongly that this multidwelling development does not fit into the area which has only single family homes. There is clearly insufficient parking for each apartment/unit. Most will likely house couples who will each have a car. There is only parking designated for a single car per dwelling (although for some I cannot even see that). This will mean that parking will be on the street outside and as its a very busy road this will create safety concerns. This could mean an additional 15 cars needing parking along Lismore Rd. Also, as some of the units are 2 bedrooms this could imply additional cars.

There will also be a bottleneck for cars going in and out which could cause traffic issues on Lismore Rd.

I also do not think the design fits into the heritage style of Bangalow. None of the surrounding dwellings have brick.

I am also concerned in the email you sent out all recipients emails were visible. This is a breach of our personal information that should not happen.

Regards,

Bronwyn Barkla
5 Meadows Close
Bangalow

On Thu, Jan 2, 2020 at 11:35 AM Development Support Officer <dso@byron.nsw.gov.au> wrote:
Good Morning

Please find letter attached.

Regards

Sharon Roberts
DEVELOPMENT SUPPORT OFFICER
BYRON SHIRE COUNCIL [P: 02 6626 7025|F: 02 6684 3018|E: dso@byron.nsw.gov.au

Days of work: Tuesday to Friday

Find us on Facebook www.facebook.com/byronshire.council

Please consider the environment before printing this email.

Van Iersel, Rob

From: Ronny Andersen-Seaman <ronnygary@hotmail.com>
Sent: Thursday, 9 January 2020 12:54 PM
To: council; submissions
Subject: Submission for application (10.2019.161.1)

Multi Dwelling Housing Comprising Fifteen (15) Dwellings
Submitted Date: 05/04/2019
Application Type: Development Application

Dear Sir / Madam

Re Development 10.2019.161.1 - Lismore Rd Bangalow (Collective Development)

- 14 Car spaces for 15 units will create parking issues on a busy Lismore Road
- There appears to be no disabled parking or visitor parking
- There is none or very limited Green Space on the building allotment
- This development will look over existing single properties in neighbouring area
- Too many units on such a small block of land

Regards

Gary Seaman
72 Charlotte Street
Bangalow 2479

Sent from [Mail](#) for Windows 10

10.2019.161.1 23 Lesimore Rd

(Lot A.D.P 396844)

Lesimore Venture Pty

Multic Dwelling Housing Comprising
Fifteen (15) Dwellings

General Manager Byron Shire Council.

Dear Sir,

I would like to make a submission against the Lot A.D.P. 396844 on 23 Lesimore Road, as I feel the road can not handle the traffic that would be entering on such a very over congested road now as all traffic to Lesimore use's this road as well as a lot of trucks to Lesimore, if the Highway is closed there is much more traffic.

and apart from this road is classed as a "Heritage" part of Bangalow, and I see this road as a death waiting to happen which is a great worry to many people.

Yours Sincerely

Jan Bullert

Jan Bullert
88 St Helena Rd
Bangalow
19-1-2020

BYRON SHIRE COUNCIL	
DOC NO:	
REC'D:	21 JAN 2020
FILE NO:	A77169
ASSIGNEE:	R. Van Iersel
PR:	45640

Van Iersel, Rob

From: Yvonne Huntley <huntleyyvonne@gmail.com>
Sent: Wednesday, 22 January 2020 2:49 PM
To: submissions; Van Iersel, Rob
Subject: Re: Objection DA 10.2019.161.1

Mr R.G Van Iersal

RE: Development Application 10.2019.161.1 Parcel No 45640 &267884 23 Lismore Road Bangalow.

I strongly object to this proposed development on the following grounds.

Much of this email is copied as most of the points of objection are the same for all objectors but I would like to add that I have a friend who lived in one of the Kollektive in Byron Bay. He ended up moving out due to the space being too claustrophobic while the rent too high.

As I understand it this site is zoned Low Density. I'm not sure what criteria is used but this cannot by any means be Low Density living.

1. The Development is completely out of Character with surrounding federation era buildings and is in the Bangalow Conservation Area and does not satisfy compatibility conditions required for this heritage site . The site has adjoining Listed Heritage buildings including Blanche's House ,George Reading store and Hartford House and will destroy the amenity of these buildings and the Bangalow region as a whole.
2. The buildings will overlook neighboring homes and will destroy their privacy and introduce an unacceptable level of noise from so many accommodation units on such a small block of land some 2330 m2. Noise Buffers between units and adjacent homes are not explained.
3. The minimal 1.5m Setback proposed will impose an excessive visual impact on adjoining properties as the residents would be viewing a 2 story brick wall.
 4.
 - o Overshadowing will be significant to existing homes due to the height and proximity to the Northern and Southern Boundaries causing angst to existing neighbours.
5. Car Parking is not sufficient for the 15 units planned and would lead to residents parking on Lismore Rd this would impair vision when exiting the development onto an ever Busy Lismore road resulting in a unacceptable level of danger especially for any elderly residents. Car Parking within the Development is extremely challenging especially for the elderly due to the narrow and difficult access .
6. The scaled down size of the proposed units some as small as 32 m2 upper level bedrooms are 1.8m wide are inadequate for decent respectable living .
7. Given the dwellings are multi story they will not be suitable for most seniors and elderly residents as claimed. Older residents require little or no steps
8. The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate .A single disabled car park noted on proposed plan is no larger than others and does not qualify for disabled use.
9. There are no landscaping plans attached showing how a required minimum 35 sqm per dwelling 595 sqm or over a 1/4 of the site) would be allocated for landscaping.
10. Plans are inconsistent with respect to Garbage areas and do not consider impact on adjoining Ref No: 4117 7456 101. Such areas should not be included for landscaping space.
 11.
 - o Solar access is not available to all units.

In summary this development is not suitable and will bring social upheaval to the residents, neighbours and those that live in the Bangalow area and surrounds. It will destroy the Character of the area that has attracted residents and tourists to the township . It is universally agreed that affordable housing is required but Council needs to review its requirements regarding affordable housing in the shire and its placement.

Regards

Yvonne Huntley

21 Gunel Rd

Possum Creek

0417339920

On Fri, 10 May 2019, 1:37 pm Yvonne Huntley, <huntleyyvonne@gmail.com> wrote:

Subject: Objection DA 10.2019.161.1

Dear Sirs.

Mr R.G Van Iersal & Acting mayor Michael Lyon.

RE: Development Application 10.2019.161.1 Parcel No 45640 & 267884 23 Lismore Road Bangalow.

I strongly object to this proposed development on the following grounds.

Much of this email is copied as most of the points of objection are the same for all objectors but I would like to add that I have a friend who lived in one of the Kollektive in Byron Bay. He ended up moving out due to the space being too claustrophobic while the rent too high.

As I understand it this site is zoned Low Density. I'm not sure what criteria is used but this cannot by any means be Low Density living.

1. The Development is completely out of Character with surrounding federation era buildings and is in the Bangalow Conservation Area and does not satisfy compatibility conditions required for this heritage site . The site has adjoining Listed Heritage buildings including Blanche's House ,George Reading store and Hartford House and will destroy the amenity of these buildings and the Bangalow region as a whole.
2. The 3 ,2 story buildings will overlook neighboring homes and will destroy their privacy and introduce an unacceptable level of noise from so many accommodation units on such a small block of land some 2330 m2. Noise Buffers between units and adjacent homes are not explained.
3. The minimal 1.5m Setback proposed will impose an excessive visual impact on adjoining properties as the residents would be viewing a 2 story brick wall.

4. Overshadowing will be significant to existing homes due to the height and proximity to the Southern Boundary causing angst to existing neighbours.
5. Car Parking is not sufficient for the 17 units planned and would lead to residents parking on Lismore Rd this would impair vision when exiting the development onto an ever Busy Lismore road resulting in a unacceptable level of danger especially for any elderly residents. Car Parking within the Development is extremely challenging especially for the elderly due to the and narrow and difficult access .
6. The scaled down size of the proposed units some as small as 32 m2 upper level bedrooms are 1.8m wide are inadequate for decent respectable living .
7. Given the dwellings are multi story they will not be suitable for most seniors and elderly residents as claimed. Older residents require little or no steps
8. The DA does not address the objectives of seniors living policy and provisions for disabled access are minimal and inadequate .A single disabled car park noted on proposed plan is no larger than others and does not qualify for disabled use.
9. There are no landscaping plans attached showing how a required minimum 35 sqm per dwelling 595 sqm or over a 1/4 of the site) would be allocated for landscaping.
10. Plans are inconsistent with respect to Garbage areas and do not consider impact on adjoining Ref No: 4117 7456 101. Such areas should not be included for landscaping space.
11. Solar access is not available to all units.

In summary this development is not suitable and will bring social upheaval to the residents, neighbours and those that live in the Bangalow area and surrounds. It will destroy the Character of the area that has attracted residents and tourists to the township . It is universally agreed that affordable housing is required but Council needs to review its requirements regarding affordable housing in the shire and its placement.

Regards

Yvonne Huntley

21 Gunel Rd

Possum Creek

0417339920

RESIDENTS OBJECTION TO THE DEVELOPMENT OF LOT A; DP 376877

23 Lismore Road, Bangalow

Submitted by; Mr S. Scott & Ms A. Burton 25b Lismore Road, Bangalow.

SUMMARY

The amendments made to the above development do not address the concerns raised in our original objection. For this reason this objection is respectfully re-submitted (minus the height non-compliance) regarding the proposed development of DP 37 6877 for the following reasons:

- The proposed development grossly offends the existing character of the Bangalow Conservation Area which predominately consists of period dwellings and earlier centuries commercial premises (including an Apothecary) that line the road from both entrances to the town centre. The ambience created by the town's character and its "olde world" charm is what attracts the multitude of tourists who visit the town all year around and has caused celebrities from the performing arts to take up residence in Bangalow.
- The proposed development does not comply with the regulations set out in the *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
- The proposed development does not comply with the statutory planning instrument known as *Seniors Living Policy: Urban Design Guidelines for Infill Development*
- The proposed development does not comply with the regulations set out in the *Byron Local Environmental Plan, 2014*.

Following are details in support of the above referenced reasons.

1.0 Planning regulations applicable to the proposed development:

Regulations applicable to the development of DP 376877 are set out in the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. These include the following:

Part 2, Division 1, Clause 13

"This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent".

The development is proposed to have 5 x 32m sq. studio apartments = 160m sq. Total gross floor area (GFA) of for the development is 1112m squared. Therefore, proportion of development for affordable housing (studios only) appears to be less than 20% (about 14%).

Part 2, Division 1, Clause 14:

- a) Stipulates that the minimum footprint for an application not to be refused should be 35m² & the studio dwellings are only 32 m² (per applicant's Statement of Environmental Effects, page 11).
This suggests that the affordable housing segment of the design is below expected minimum size of the State planning authorities & could as such be refused.
- b) Stipulates that the area must either provide 35 square metres of landscaped area per dwelling or 30% of the site should be landscaped. The applicant's landscaped area is less than this required 30% (per applicant's Statement of Environmental Effects, page 11).

Part 2, Division 1, Clause 16A

"A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area".

As set out in the Introduction to this submission the proposed development is not consistent with those of the surrounding dwellings or in line with the character of the local area.

In accordance with clause 15 (1) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* a consent authority is required to take in to consideration the *Seniors Living Urban Design Guidelines for Infill Development* to the extent where those provisions are consistent with the SEPP ARH. Below describes how they are not consistent with the SEPP ARH;

1.01 Street layout & hierarchy

Asks is it consistent with those around it – no it is not. The street hierarchy is free standing homes with off street parking for resident cars.

1.03 – Built environment

A compatibility check notes higher density than surrounding built environment. Proposal is not consistent with R2 zone low density, the Bangalow Village Plan (see Style Guide photos on page 45 - 47) or the spirit of the Heritage Conservation Area Zoning.

7.5 - SEPP infrastructure

Applicant describes the proposed development as “not a traffic generating development”.

- 15 dwellings, one driveway, 14 parking spaces (potentially only 13) with likely more than one car per dwelling equals significant traffic generation for a country town.
- What infrastructure contributions are being made to support the community? Eg. Roads, sewer, local amenities etc.

7.7.19 - Private open space

The positioning of the private open spaces of the studio dwellings will be backing onto bedrooms which is a key consideration of this performance criteria.

Byron Local Environmental Plan (LEP) 2014 requirements are not fulfilled as follows:

- ~~Planned height greater than 9 metres, (as described in the applicant’s Statement of Environmental Effects, page 11). This does not comply with the height restrictions of 9.0 metres.~~
- The site is within the R2 low density zoning & the proposal is medium density.
- The floor space ratio (FSR) is 0.56 (max is 0.5:1). The applicant seeks to use clause 2 for bonus floor space, but per Clause 1, they do not appear to meet the minimum requirement (20% - as described above) for affordable housing to qualify for the bonus.

2.0 The Development:

- The Development is for the building of Multi-dwelling & multi-story, medium density dwellings consisting of:

8 x two bedroom double story townhouses

4 x one bedroom double story dwellings and

5 x double story studios (nominated as ‘affordable housing’).

3.0 Impact on the character of the Bangalow Conservation Area

Will weaken the rural, country aspect of the Bangalow town.

- Does not align with the current building styles present in the R2 zone - low density, single story, period structures.
- Is not in the spirit of the Bangalow Conservation Area.

-
- Would set a precedent for further similar developments which will destroy the character of the town.
 - Will increase traffic congestion in an already congested town centre.

Is contrary to the will of the people as surveyed in the Bangalow Village Plan (2016), which indicated that:

Among the top five dislikes in the community are:

- Development
- Traffic
- Lack of parking

The things that the community wish to preserve are:

- Rural village feel; low scale, less traffic
- Prevent loss of character
- "new development must fit in with what's already here".

The Bangalow vernacular style guide of buildings that should be avoided (such as is proposed):

- Typical brick & tile suburban style housing of slab on ground construction
- Modernist style buildings & architecture that have a heavy & highly urbanised appearance.
- Metal window frames.

Will be of significant disruption to the lifestyle of those in the immediate vicinity of the development with regard to noise pollution, car pollution, overshadowing and ambient light pollution.

In the introduction the applicant suggests that the development is to provide "*permanent affordable rental housing*". The fact that the development only has to provide a fraction of the site to affordable housing & only for 10 years does not equate to the stated "*permanent affordable rental housing*".

The examples of properties shown in the Thomas Street development (for comparison against the developer's proposal) are not in the Bangalow Conservation Area. The 'in keeping with local character' argument for double story development of a higher density does not fit. Further, the slope of the hill in Thomas Street has a steeper fall on the hill than at the proposed site - the subsequent height impact of a double story development will have a more significant impact as none of the current neighbouring properties of the development are double story.

BANGALOW PROGRESS ASSOCIATION

22 Jan 2020

General Manager
Mr Mark Arnold
Attention: Mr Robert Van Iersel

DA No. 10.2019.161.1
23 Lismore Road, BANGALOW NSW 2479
Multi Dwelling Housing Comprising 15 Dwellings.

OBJECTION

The updated DA does not address the primary concerns of the Bangalow Progress Association in relation to a group of low-rise high-density dwellings located in a residential precinct of the Bangalow Heritage Conservation Area. The associated density, bulk and scale of the proposed structures is incompatible with surrounding single-story heritage dwellings.

The site for this development marks a main entry point to the unique Bangalow heritage village and should therefore reinforce and validate the broad heritage proposition available throughout Bangalow. Authentic heritage villages are a rarity in NSW and both state and local governments have recognised the importance of protecting heritage assets and ensuring that developments in such areas are appropriate. The past year has been notable for its focus on planning strategy, much of this driven by NSW DPE. This work has involved the development of several strategies, designed to guide development, with character being a major consideration. This emphasis has been reflected in the Bangalow Village Plan, the Residential Strategy and associated Local Character Narratives, and the Business and Industrial Lands Strategy. These initiatives have been welcomed by the Bangalow community because they lead to better development outcomes for the Bangalow heritage village where the preservation of heritage character is paramount.

The proposed development would also create serious parking issues given that 21 bedrooms can potentially accommodate the same number of couples, each of whom may own a car i.e. about 40 cars maximum. The evidence for this outcome is well established at 20 Sunrise Boulevard, Sunrise, an early Collective affordable housing development that has transformed a quiet Boulevard into a parking nightmare. Parking overflow at 23 Lismore Rd will not be readily accommodated elsewhere. Nearby parking areas on Lismore Rd are very limited and typically occupied by cars, but on this section of Lismore Rd, with traffic entering or leaving an 80km speed zone, the possibility of cars slowly seeking parking spaces is obviously hazardous and best avoided. Vehicle entry and exit from the site at 23 Lismore Rd is equally dangerous and life threatening, with elevated risk due to heavy vehicles regularly using Lismore Rd.

Other developers have respected well established public interest, producing outcomes supported by the community. A recently approved DA at 7 Lismore Road, adjacent to the state listed George Reading building, exemplifies this approach with a single heritage style cottage

BANGALOW PROGRESS ASSOCIATION

that complements adjoining heritage buildings and continues the line of such buildings leading to the Bangalow urban heritage area.

Property prices are now so high in Bangalow that true affordable housing for very-low income households is not tenable. The BPA does not support the manipulation of affordable housing exemptions to simply create high density housing developments for moderate-income households on the private rental market. We note that the pending Low-Rise Medium Density SEPP cannot be adopted within HCA's, so surely the same rationale should apply to high density SEPP developments. BPA supports efforts to provide genuine managed affordable housing for very-low and low-income households as a commitment to equity and social justice. In Bangalow it is the churches that offer the most genuine opportunities for social housing.

High density blocks of units are obviously incompatible with the unique heritage character of Bangalow and the proposed density, bulk and scale would degrade rather than protect this character. Proposing this over development in the Bangalow HCA displays a blatant disregard for community values and effectively creates a wealth transfer from the community to the developer. The DA uses the pretext of affordable housing to deliver a sub-standard development that both fails to meet planning requirements or fulfil social needs. The BPA strongly recommends that the DA be refused.

Signed



Ian Holmes
President, Bangalow Progress Association
0414 959 936
6687 2368

RE:

DA No: 10.2019.161.1

23 Lismore Rd, BANGALOW NSW 2479

LOT and DP: LOT A DP: 376877

Multi-Dwelling Housing comprising 15 (4x2 Storey) dwellings

Lismore Venture Pty Ltd

Hi Rob,

It is disappointing to have so little time to have our say, though I understand the time constraints. Many locals have been away and others that I have spoken with say 'but we already submitted our objection'. Many can't believe that such a DA could possibly be approved.

I have looked over the amended plans submitted by Lismore Venture.

The changes have NO effect on lessening the impact of the development on my property or that of my neighbours' properties.

Unfortunately, on the day of the conciliation, I will be away in NZ. I made a commitment to my sister and it is impossible to cancel my trip at this late stage. I am gutted that I am unable to attend the meeting on 31st. I have a family member who is also a resident of Bangalow, Peter Sinclair, making the presentation on my behalf.

At the meeting, as part of my presentation (via Peter) I plan to invite the parties onto my property to view the DA site from my perspective. If those at the meeting genuinely want to see how the Proposed DA will impact its neighbours, then it is only fair that they view from both sides of the fence!

The height of the 'terraces' buildings facing south are only 120mm below the height of my roofline despite the fact that the land is on my low side. The rear 'Row houses' have a roof height almost the same as mine (only 20mm difference).

I will literally still be looking at walls from every living area & outdoor area of my property. Horrendous and heartbreaking for me. No more trees or sky from my lovely back room. Just a big wall.

From my western verandah I will have yet more walls.

In between the buildings, there will be the main driveway that will have car lights directed full onto my home.

Their DA states that the entire perimeter is landscaped but that is not the case.

The 'Row Houses' that impact my beautiful rear garden have a clothesline behind my fence and NO landscaping with no opportunity to do so. The building will not be able to be screened at all as it is only a mere 1.5m from my boundary at that corner. You cannot successfully screen a 2 storey building with only shrubs and very limited outdoor space.

Landscaping is poor and cheap to say the least. It is in the form of bushes and shrubs with small trees eg Frangipanni which are deciduous anyway hence not a suitable form of permanent screen.

This group of 4x2 storey units will not be able to be screened at all from my property as they have pushed them to the boundaries to allow for road access. There is limited available outdoor spaces/setback for any type of landscaping to be useful screening.

My winter sun will be gone and my cottage will be dark and cold. The terraces units will block the lovely southerly breezes not only for myself but for the neighbour at the rear and any residents who live in this development. It will be hot in summer and cold in winter.

All who live here including immediate neighbours and potential residents deserve to share this lovely rural environment. None of us are more important than the other.

This block of land could have been a wonderful opportunity to provide housing that was consistent with the cottages that surround it. Single storey cottage style. The developers should respect our lovely community and not fight we people who live here, some of us for many for years.

Their objective is to cram as many units as possible on the block to maximise their income. There is little thought for any of us including their future tenants.

The sunset clause is only for 10yrs. So short sighted. Then we are left with a precedent that has been set and it would be open slather to do whatever they please.

There are many other issues with traffic parking noise drainage sewerage etc etc that I'm sure many others have brought to your attention so I am just keeping it all from my perspective for the feedback.

You have been to my cottage so you will have a pretty good idea of the terrible impact this development will have on me personally.

Bangalow has been my home for the last 30yrs. I've worked so hard & on my own for many years to have a lovely space to retire to. My garden and home are a great joy in life for me. If this development goes ahead it will be soul destroying for me. My cottage is 1890's. I am now and have always been passionate about Bangalow and maintaining its unique heritage character. As you know, I am required to comply with heritage guidelines and do so happily.

The proposed DA actually states:

"The proposal is designed in a contemporary manner and does not seek to imitate or replicate any architectural style of buildings/elements withing Bangalow"

This DA is within our beautiful Heritage precinct and as such is subject to a local character test. It fails dismally! It is glaringly inconsistent in terms of scale bulk and finishes. It totally disrespects our heritage village and our community who enjoy living here.

The overriding consensus from the community of Bangalow has been to protect and maintain the small, rural amenity of our village.

This development application adopts a miserly approach by manipulating regulations to deliver a sub standard example of fulfilling social needs.

'The Kollektive' have become widely disliked and their developments are being rejected by communities everywhere not just here in Bangalow.

I plead with you reject this DA.

It has already taken its toll on my mental emotional and physical wellbeing.

Thankyou

Kind Regards

Isobel Sinclair

0467211144

15 THOMAS ST

BANGALOW

DA 10.2019.161.1 RECOMMENDED CONDITIONS OF CONSENT

SCHEDULE 1 CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**
The development is to be in accordance with the plans prepared by The Kollektive listed below:

Plan No.	Description	Dated:
D-S-01 Rev B	Site Plan	10.12.2019
D-P-01 Rev B	Lower Floor Plan	10.12.2019
D-P-02 Rev B	Upper Floor Plan	10.12.2019
D-P-04 Rev B	Roof Plan	10.12.2019
D-E-01 Rev B	Elevations 1	10.12.2019
D-E-02 Rev B	Elevations 2	10.12.2019
D-E-03 Rev B	Site Sections and External Finishes	10.12.2019
D-D-01 Rev B	Detailed Plan – Typical Studio	10.12.2019
D-D-02 Rev B	Detailed Plan – Typical Row House	10.12.2019
D-D-03 Rev B	Detailed Plan – Row House – AS4299 Adaptable	10.12.2019
D-D-04 Rev B	Detailed Plan – Terraces Lower <T1-T3>	10.12.2019
D-D-05 Rev B	Detailed Plan – Terraces Upper <T1-T3>	10.12.2019
D-S-03 Rev B	Site Plan – Landscaped Area	10.12.2019

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Approved Use**
Use of this development is approved for multi dwelling housing. Any activity other than that defined as multi dwelling housing must not be carried out unless development consent has been granted.
- Nothing within this development consent permits the development to be used as short-term rental accommodation, tourist and visitor accommodation or to be holiday let.
3. **Provision of Affordable Housing**
From the date of the issue of an Occupation Certificate for the subject development, Studio 5 and Row Houses 1, 2 & 3 are to be used only for the purposes of 'affordable housing' (as defined in the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy [Affordable Rental Housing] 2009*), and these dwellings are to be managed for a period of at least 10 years by a registered community housing provider (*registered community housing provider* has the same meaning as in the *Housing Act 2001*).

4. **Common antennae**

Where buildings contain multiple units, shared television antennae/satellite dishes are to be provided to reduce the visual impact of multiple services.

5. **Developer Contributions to be paid – affordable units**

Contributions set out in the schedule below are to be paid to Council if the units used as affordable housing cease to be used for that purpose.

Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.

Section 7.11 Contributions Schedule for DA10.2019.161.1						
Affordable Units						
Bangalow Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =		4	@	0.55 SDU	=	2.2
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Number of allotments =		0	@	1	=	0
Less Site Credits =		0	@		=	0
Total SDU					=	2.2
Schedule valid until		29/01/2020		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-BG)	2.20	SDU @	\$3,900.19	=	\$8,580.42
LGA Wide Open Space & Recreation	(OS-SW)	2.20	SDU @	\$760.01	=	\$1,672.02
LGA wide Community Facilities	(CF-SW)	2.20	SDU @	\$1,113.12	=	\$2,448.86
Local Community Facilities	(CF-BG)	2.20	SDU @	\$353.10	=	\$776.82
Bikeways & Footpaths	(CW-BG)	2.20	SDU @	\$941.44	=	\$2,071.17

Shire Wide Bikeways & Footpaths	(CW-SW)	2.20	SDU @	\$81.65	=	\$179.63
Urban Roads	(R-BG)	2.20	SDU @	\$1,619.44	=	\$3,562.77
LGA Wide Roads	(R-SW)	2.20	SDU @	\$229.98	=	\$505.96
Rural Roads	#N/A		SDU @	-	=	-
Administration Levy	(OF-SW)	2.20	SDU @	\$1,149.58	=	\$2,529.08
Total					=	\$22,326.73

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

6. Developer Contributions to be paid – remaining units

Contributions set out in the schedule below are to be paid to Council prior to the release of a Construction Certificate.

Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). Contributions may be paid on a proportional basis based on the number of dwellings to be released in a construction certificate.

The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.

Section 7.11 contributions Schedule for DA10.2019.161.1						
Bangalow Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =						
2 bedroom units =		5	@	0.55 SDU	=	2.75
3 bedroom units/dwellings =		4	@	0.75 SDU	=	3
Number of allotments =		2	@	1 SDU	=	2
Less Site Credits =		0	@	1	=	0
Total SDU		1	@	-1	=	-1
Schedule valid until					=	6.75

		29/01/2020		After this date contact Council for CPI update.		
Local Open Space & Recreation						
LGA Wide Open Space & Recreation	(OS-BG)	6.75	SDU @	\$3,900.19	=	\$26,326.28
LGA wide Community Facilities	(OS-SW)	6.75	SDU @	\$760.01	=	\$5,130.07
Local Community Facilities	(CF-SW)	6.75	SDU @	\$1,113.12	=	\$7,513.56
Bikeways & Footpaths	(CF-BG)	6.75	SDU @	\$353.10	=	\$2,383.43
Shire Wide Bikeways & Footpaths	(CW-BG)	6.75	SDU @	\$941.44	=	\$6,354.72
Urban Roads	(CW-SW)	6.75	SDU @	\$81.65	=	\$551.14
LGA Wide Roads	(R-BG)	6.75	SDU @	\$1,619.44	=	\$10,931.22
Rural Roads	(R-SW)	6.75	SDU @	\$229.98	=	\$1,552.37
Administration Levy	#N/A	6.75	SDU @	-	=	-
Total	(OF-SW)	6.75	SDU @	\$1,149.58	=	\$7,759.67
					=	\$68,502.46

7. Easement required over pipelines

An easement shall be provided for the sewer main that runs under the proposed driveway, as per Clause 3.4 of the Policy 4.20.

Pursuant to Section 88B of the Conveyancing Act, 1919 an Instrument shall be prepared for each lot with creation of the easement.

The developer shall submit, to Council, the proposed easement drawings with dimensions to ensure compliance with Policy.

8. Compliance required with Building Over Pipelines Policy

All developments must comply with Policy 4.20. Swimming pools are classed as buildings and are required to comply with this policy.

Any brick / masonry fence crossing a pipeline requires Council approval. The fence must be supported such that it does not cause loading on the pipes zone-of-influence.

The use of displacement and screw pile construction methods will require approval by Council.

9. Water and Sewerage - Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

Water metering to be in accordance with Byron Shire Council's water metering requirements - see: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

Any new water service and meter will be at applicants cost.

10. Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

Byron Shire Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.

Note: Copies of the application forms for Certificates of Compliance are available on Council's website

http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Water on 02 6626 7081. Applicable charges can be found on Council's website: <http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Payment by Personal or Company Cheque will not be Accepted

11. Geotechnical Report required – Building Works

A certificate from a professional Engineer experienced in Geotechnical Science is to be provided to the Principal Certifying Authority, certifying that the site is stable and will not be affected by landslide or subsidence at, above or below the site when the building is erected. The certificate must be prepared in accordance with AS 1726 and submitted prior to the issue of a Construction Certificate.

12. Geotechnical Report required – Engineering Works

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate, certifying that:

- (a) the design of the civil engineering works, including retaining walls and/or cut & fill batters, has been assessed as structurally adequate,
- (b) the civil engineering works will not be affected by landslip or subsidence either above or below the works; and
- (c) adequate drainage has been provided.

13. Plans of retaining walls and drainage

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

Such plans and specifications must be approved as part of the Construction

Certificate.

14. On-site stormwater detention required

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity, generally in accordance with LUCENA Civil & Structural Engineers Stormwater Report V2 dated 15/7/19.

Such plans and specifications must be approved as part of the Construction Certificate.

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- (a) comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and
- (b) unless exempt from obtaining an approval under section 68 of the Local Government Act 1993 by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate.

15. Consent required for works within the road reserve

Consent must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

A Works Authorisation Deed Agreement (WAD) from RMS is required for the design & construction of roadworks within Lismore Road; i.e. the state classified road.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway	Driveway in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".
Basic Right Turn Treatment (BAR)	Road pavement, line marking and associated drainage construction, including any necessary relocation of services, to provide a BAR treatment in accordance with AUSTROADS (unless lesser requirement specified by RMS).
Traffic Management Plan for works associated with construction of the development, including the site preparation / regrading	The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic management plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The report must incorporate measures to ensure that

motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The traffic management plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

16. Car parking layout, vehicle circulation and access plans required.

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- (a) 12 car parking spaces, consisting of:
 - 1 x disabled parking in accordance with AS2890.6:2009;
 - 6 x internal garage for units T1 to T6; and
 - 5 x parking spaces in accordance with User Class 1A & $C_2 = 4.8m$ (Figure 2.2) and associated wheel stops (clause 2.4.5.4) of AS2890.1:2004.
- (b) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- (c) site conditions affecting the access;
- (d) common area for the aisle and footpath of minimum 6.0m (see note);
- (e) existing and design levels;
- (f) longitudinal section from the road centreline to the car space(s);
- (g) cross sections every 30 metres;
- (h) drainage details;
- (i) turning paths associated with the Council's 9.64m length waste collection vehicle turning area (refer to Byron Development Control Plan 2014 – Chapter B8 – Waste Minimisation and Management – Appendix B8.5 Garbage Truck Dimensions for Residential Waste Collection); and
- (j) line marking and signage.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

The footpath area must not be delineated or line marked within the common area unless a minimum 6.8m width is provided (aisle width of 5.8m + proposed footpath

width of 1.0m).

17. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (a) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

NOTE: real estate development project has the meanings given in section 372Q of the Telecommunications Act.

18. Noise Management Plan - Construction

A Noise Management Plan must be submitted to Council / Certifier for approval prior to the issue of the construction certificate for building works. The Noise Management Plan must be prepared by a suitably qualified acoustic practitioner and detail the methods that will be implemented for the whole project to minimise construction noise. Information should include:

- (a) identification of nearby residences and other sensitive land uses;
- (b) assessment of expected noise impacts;
- (c) detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts;
- (d) strategies to promptly deal with and address noise complaints;
- (e) details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment);
- (f) procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts;
- (g) reference to relevant consent conditions; and
- (h) name and qualifications of person who prepared the report.

Note: Refer to DECC's 'Interim Construction Noise Guideline' (2009) for more information refer <http://www.environment.nsw.gov.au/noise/constructnoise.htm>

19. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 990109M_02, dated 22 January 2020.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the energy efficiency measures may be undertaken without the issue of any amendment under Section 96 of the Act, provided that the changes do

not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section D2.2.3 of Council's Development Control Plan 2014. White colours are not permissible.

Such plans and specifications must be approved as part of the Construction Certificate.

20. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must generally be earth tone colours and that the use of white and near white colours is not permissible.

Such plans and specifications must be approved as part of the Construction Certificate.

21. Detailed landscaping plan required

The application for a Construction certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014.

Species identified in Chapter B9 of Development Control Plan 2014 are to be planted where possible. The landscaping plan must indicate:

- (a) proposed location for planted shrubs and trees
- (b) botanical name of shrubs and trees to be planted
- (c) mature height of trees to be planted
- (d) location of grassed and paved areas, and
- (e) location of trees identified for retention in the development application plans.

The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate.

22. Long Service Levy to be paid

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at www.longservice.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. When paying to Council, cheques are to be made payable to 'Byron Shire Council'.

For further information regarding the Long Service Payment please refer to the website above.

23. Site Waste Minimisation and Management

All works must comply with the objectives of waste minimisation and waste management of Part B8.1.2 of DCP 2014.

24. Unexpected Findings Protocol - Contamination & Remediation

An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of Construction Certificate. The UFP shall be prepared by a suitable qualified person experienced in matters relating to Contamination of Land and Remediation.

25. Garbage storage area to be provided

The application for a Construction Certificate is to include plans and specifications that indicate the proposed waste material store area. The proposed garbage store area is to be designed and constructed to provide sufficient capacity for the range of waste storage containers required for all the waste management activities conducted in association with the development.

Adequate ventilation, lighting, fire response and access to be provided to ensure safe and healthy conditions can be maintained for the protection of workplace health and safety.

Provision to be made for waste collection vehicle movement and lifting height requirements for all types of waste storage bins.

Such plans and specifications must be approved prior to the issuing of the Construction Certificate.

The following conditions are to be complied with prior to any building or construction works commencing

26. Erosion and sediment measures

Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. This may include stockpiled materials such as sand, etc.

Any such measures that are deemed to be necessary because of the local conditions must be in place prior to any building or construction works commencing and maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

27. Water service and meter to be connected

Prior to any building or construction works commencing, a water service and water meter must be connected to the property using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Any new water service and meter will be at the applicants cost.

The following conditions are to be complied with during any building or construction works

28. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- (a) Monday to Friday, from 7 am to 6 pm.
- (b) Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

NOTE: Council may impose on-the-spot fines for non-compliance with this condition.

29. Construction Noise

Construction noise is to be limited as follows:

- (a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- (b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

NOTE: Council may impose on-the-spot fines for non-compliance with this condition.

30. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

31. Unexpected Findings Protocol - Contamination & Remediation

All site works must be undertaken in accordance with the approved Unexpected Findings Protocol (UFP).

32. Stormwater drainage work

Stormwater drainage for the development shall be constructed in accordance with the approved plans and specification by a suitably qualified person.

33. Signs to be erected on building and demolition sites

Prior to any building or construction works commencing, and for the duration of construction, a sign must be erected in a prominent position on the work site:

- (a) stating that unauthorised entry to the work site is prohibited, and
- (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

34. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
35. **Fill to be retained on the subject land**
Fill material must not encroach onto any adjoining land.
36. **Prevention of water pollution**
Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

Note: Council may impose on-the-spot fines for non-compliance with this condition.
37. **Maintenance of sediment and erosion control measures**
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

The following conditions are to be complied with prior to issue of an Occupation Certificate

38. **Works to be completed prior to issue of a Final Occupation Certificate**
All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development and including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.
39. **Section 88E Instrument**
A restriction must be registered, before the date of the issue of the Occupation Certificate, against the title of the property, in accordance with section 88E of the Conveyancing Act 1919, to ensure that the requirements of Condition 3 are met.
40. **On-site Stormwater Detention – Certification of works**
All stormwater drainage works, including on-site stormwater detention works, for the development shall be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's Comprehensive Guidelines for Stormwater Management.
41. **Stormwater disposal**
Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- (a) Clear of buildings and infrastructure,
- (b) Clear of effluent disposal areas,
- (c) Not concentrated so as to cause soil erosion, and
- (d) Not directly to a watercourse.

The following conditions are to be complied with at all times

- 42. **Stormwater Maintenance**
The stormwater collection and treatment devices must be inspected and maintained in accordance with the maintenance program contained in the approved Integrated Water Cycle and Soil Management Plan.
- 43. **No interference with amenity**
The use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:
 - (a) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
 - (b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
 - (c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
 - (d) All trade waste pre-treatment devices and other waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
 - (e) Goods deliveries, fuel deliveries and waste collection shall be restricted to daytime operating hours.
- 44. **Subdivision requires consent**
In accordance with clause 18 of State Environmental Planning Policy (Affordable Rental Housing) 2009 any subdivision of this land requires the consent of Council.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the [Environmental Planning and Assessment Regulation 2000](#). This can be accessed at

<http://www.legislation.nsw.gov.au>.

SCHEDULE 3 NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a) appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b) given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c) notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT
(ET Policy No:2018)

Water	6.4 ET
Bulk Water	6.4 ET
Sewer	8.5 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>). These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.



Planning Proposal
for Amendment of Byron Local Environmental Plan 2014
Additional Permitted Uses – The Farm
Ewingsdale Road, Ewingsdale

Byron Shire Council
Authority Ref: 26.2016.6.1

Public Exhibition Version

February 2020

Planning Proposal – The Farm, Ewingsdale

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
E2017/103796		DRAFT Planning Proposal Pre Gateway Version #1
E2017/116016		Planning Proposal Gateway Version #1
E2018/4688	02.07.2018	Planning Proposal Gateway Version #2 (following preliminary department comments)
E2018/58377	10.07.2018	Planning Proposal Gateway Version #2 WORD Version (following Department comments)
E2020/3637	16.01.2020	Planning Proposal amended to seek Gateway variation

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Part 1 Introduction

Objectives and intended outcomes

The objectives of this Planning Proposal are to amend Byron Local Environmental Plan 2014 (LEP 2014) to:

1. provide an approval pathway for existing land uses that are associated with farming activities at The Farm, which are prohibited in the RU1 zone and outside of the terms of existing approvals; and
2. alter the zoning of a 20m wide strip of land along the Ewingsdale Road frontage of the property to SP2 Infrastructure (Classified Road).

The intended outcomes of the amendment to the LEP are that the SP2 Infrastructure zone would be applied via an amendment to the Land Zoning Map, and that a new local clause will be added to Part 6 of the LEP listing additional land uses that will be permitted on the site with consent, within a mapped **Farming Precinct** and a mapped **Rural Activities Precinct** at the property.

To support the new local clause, Chapter E5 of Byron Development Control Plan 2014 is proposed to be amended by the addition of a new section relating to The Farm, setting out heads of consideration for the nominated uses, to address issues of scale and potential impact and ensure that any approved uses have, and maintain, an essential association with the primary production undertaken on the land.

Other than the 20m wide strip of land along the Ewingsdale Road frontage, the amendment to the LEP will not alter the existing RU1 Primary Production zoning of the land.

Property details and existing zone

The property known as The Farm is located at Lot 1 DP 780234 and Lot 5 DP 848222, at the corner of Ewingsdale Road and Woodford Lane, Byron Bay. The whole of the land is currently zoned RU1 Primary Production under Byron Local Environmental Plan (LEP) 2014.



Figure 1 Subject land

Background

The property contains a working farm and a cluster of buildings in the south-west part of the site, housing a restaurant and a number of individual businesses, generally associated with the farming activities.

Farming at the site is being undertaken by individual 'share farmers', who each lease plots within the site, averaging 0.5-1.0ha. The approved and proposed uses within the building cluster are designed to provide an on-site market for the produce grown on the land.

This model provides small-scale farmers with a viable and affordable opportunity to get started in agriculture, and the provision of an on-site market for their goods provides a financial incentive and return.

The commercial operators, particularly the restaurant operators, work with the farmers to ensure that there is a diversity of products grown on-site and work to plan future plantings to maintain appropriate seasonal crops.

A secondary objective of the operation is food education, and The Farm offers vocational training events for farmers as well as farm tours for school groups, families and individuals, aimed at exposing the wider community to agriculture.

The following two Development Consents have been issued:

DA 10.2013.626.1 – Cheese Making Facility and Farm Café; approved 22 May 2014

Approved uses: Restaurant / café;
Roadside stall;
Gelato/ coffee bar;
Cheese making facility (not constructed);
Car parking for 45 cars, 2 buses, 1 loading bay and 13 bicycles spaces, with new access from Woodford Lane; and
On-site waste water system.

DA 10.2015.151.1 – Agricultural Training Facility, Plant Nursery and Farm Produce Kitchen; approved 12 November 2015

Approved uses: Change of use of previously approved Rural Workers' Dwelling to "agricultural training facility";
Change of use of a small existing shed and its curtilage to a plant nursery;
An extension of the existing food preparation / kitchen area associated with the café/ restaurant partly into the area previously approved for cheese making;
Car parking to provide for a total of 199 cars, 2 buses, 1 loading bay and 20 bicycles spaces; and
Upgrade to on-site wastewater system.

Activities at The Farm have been subject to a number of previous Council resolutions, primarily relating to additional unauthorised land uses, or uses extending beyond the parameters of the existing approvals.

On 25 August 2016, Council resolved (in part):

(16-465)

- *That Council staff undertake a Compliance Audit of the existing operation, particularly in relation to compliance with conditions of approval for DA 10.2013.626.1, and, as a result of the audit, prepare a detailed Audit Action Plan.*
- *That Council invites The Farm to lodge a joint Planning Proposal, Master Plan and Development Application, within 60 days of the date of this resolution, to regularise unauthorised activities and uses on the land*

In accordance with this resolution, The Farm's planning consultants lodged a Development Application (10.2016.698.1) and a Planning Proposal (26.2016.6.1) in late October 2016.

DA 10.2016.698.1 proposed:

- Change of Use of the approved "cheese making facility" to agricultural produce industry and industrial retail outlet (bakery); and
- Change of use of the existing approved dwelling house for use as ancillary offices for the existing approved restaurant and farm.

The application for a Planning Proposal (26.2016.6.1) sought "a site-specific amendment to Byron Local Environmental Plan 2014 (LEP 2014) to update Schedule 1 to permit certain additional land uses on the subject land, including:

- retail premises - shop/ food and drink premises;
- information and education facility;
- recreation facility (indoor); and
- business premises".

Following assessment of the applications and discussions with proponents, development application 10.2016.698.1 was withdrawn on 19 April 2017. The applicants also agreed to amend the Planning Proposal application such that it now deals only with existing land uses at the site. The updated Planning Proposal application was submitted on 23 August 2017.

At the meeting of 26 October 2017, Council considered a report on the matter and resolved, in part, **(17-514)**:

1. *That Council support the application for a Planning Proposal and authorise the Director SEE to negotiate with the applicant to facilitate the preparation of a Planning Proposal at the applicant's cost.*
2. *That Council's support of the Planning Proposal is withdrawn in the event that a costs agreement for the processing of the Planning Proposal not be executed within 28 days of the date of this resolution ie close of business 23 November 2017.*
3. *That the Planning Proposal deal only with the following uses on the site:*
 - *Wholesale Bakery*
 - *Agricultural training/education facilities*
 - *Administration offices*
 - *Small-scale information centre*

and that it be reported back to Council at the meeting of December 2017 for further deliberation prior to it being forwarded to the NSW Dept of Planning and Environment for a Gateway Determination.

The Planning Proposal was prepared in accordance with that resolution and, at its meeting of 14th December 2017, Council resolved **(17-671)**:

1. *Agree to initiate the Planning Proposal to amend Byron LEP 2014 (Attachment 1) for the reasons outlined in this report.*
2. *Forward the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.*
3. *Agree that staff can proceed to public exhibition of the Planning Proposal and government agency consultation based on the Gateway determination issued by the NSW Department of Planning and Environment, and report back to Council as part of post-exhibition reporting.*

The Planning Proposal has been prepared in response to this resolution and with reference to the Department of Planning and Environment's Guidelines "A guide to preparing planning proposals" and "A guide to preparing local environmental plans".

Part 2 Explanations of Provisions

The planning proposal seeks to amend Byron LEP 2014 in the following two ways:

1. Adding a new local clause that contains provisions providing an approval mechanism for the land uses nominated below the subject land.

The proposed provisions will:

- identify a 'Rural Activity Precinct' and a 'Farming Precinct' over the subject site, which will be identified on a Local Provisions Map;
- describe the purpose and extent of the Rural Activity Precinct, which is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming;
- permit the following land uses with consent in the Rural Activity Precinct;
 - a. artisan food and drink industry, being a bakery;
 - b. development for the purposes of an information and education facility, being areas utilised for the provision of small group training;
 - c. development for the purposes of office premises, utilised solely for the management of agricultural or ancillary businesses that are conducted on the property; and
 - d. development for the purposes of an industrial training facility, being for the display of information relating to the property and its uses, or as a gathering point for individuals and groups undertaking training, education or recreational activities at the site.
- describe the purpose and extent of the Farming Precinct, which will be to preserve the bulk of the property for primary production and facilitate innovative community farming models, and provide opportunities for agricultural education/appreciation and low scale recreational activities that are directly related to the primary production on the site;
- permit the following additional land uses with consent in the Farming Precinct;
 - a. farm field days and exhibitions;
 - b. farm tours for educational purposes, including individuals, school groups and other groups (limited to 30 people or 50 students in the case of a school group at a time);

The additional LEP provisions will establish an approval mechanism for a number of existing site uses, which are occurring on the land outside of the existing Development Consents.

These uses are not currently permissible with consent in the RU1 Primary Production Zone.

Council considers that these uses, being carried out in the context of the operation of the Farm – i.e. associated with the existing primary production activities – are of low impact and can be supported on the property.

Appendix A contains a suggested new local provision, to be added to Byron LEP 2014 and a preliminary Local Clause Map.

2. Rezoning a 20m wide strip of land along the Ewingsdale Road frontage of the property from RU1 Primary Production, to SP2 Infrastructure (Classified Road).

This zoning 'reserves' the land for future acquisition under the Land Acquisition (Just Terms Compensation) process.

Transport for NSW Roads and Maritime have been working with Council to determine and develop road upgrades in the locality that will remedy existing traffic congestion issues. This has involved discussions with the owners / operators at The Farm, as the existing land uses contribute to existing congestion issues.

It is clear that a widening of the western section of Ewingsdale Road will form part of the road upgrade solutions and therefore the SP2 zoning provides for that occurrence once the upgrades are ready to implement.

Appendix A contains a current land zoning map and a proposed land zoning map demonstrating the proposed area of the SP2 zone.

The new local clause will be supported by an amendment to Byron DCP 2014, to add a new section into Chapter E5 – Certain locations in Byron Bay and Ewingsdale. This new section, contained at **Appendix B**, provides additional standards and controls that will apply to the land uses permitted by the LEP amendment.

Part 3 Justification

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. The Planning Proposal proposes a local clause amendment to the LEP to address existing uses at land known as The Farm, which have commenced and/or expanded without authorisation.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The land uses proposed to be permitted on this property are currently prohibited in the RU1 Primary Production Zone, with the exception of *industrial training facility*.

The following alternatives have been considered:

1. Amend RU1 zoning table to add the uses to item 3 – Permitted with consent:

This option would permit the subject land uses within any land in the Shire zoned RU1. The intention of this proposal is address the existing uses being carried out on The Farm, based on the unique nature of the land uses on the site, primarily noting the close association between on-site farming and the non-farming uses.

2. Change the zone of the subject site:

The merits of the existing non-farming land use are that they retain an essential association with the agricultural enterprises being undertaken on the land. That agricultural use should remain the dominant land use, with the non-farming uses being undertaken to ensure that the individual smaller-scale farming enterprises remain feasible.

Changing to a non-farming zone would potentially alter this balance, allowing expansion on non-farming uses without an essential association with primary production on-site.

For the individual uses that are currently prohibited, therefore, the proposed new local provision provides the best means of achieving the intended outcomes stating in Part 1 of this proposal.

Under the terms of Development Consent 10.2015.151.1, development for the purposes of *industrial training facility* is limited to one existing building on the site.

Development for this purpose is included in the suggested new local clause to provide parameters under which that would be considered acceptable within the development on this site.

The farming use of the land remains the primary focus of activities at the site, and the planning proposal aims to reinforce that by ensuring that any approved use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhances agricultural production at the site.

Q3. Is there a net community benefit?

The Net Community Benefit (NCB) Criteria are identified in the NSW Government's publication *Draft Centres Policy, 2009*, which states that the Net Community Benefit Test should be used to assess the merits of rezoning in the following circumstances:

- proposals to develop within an existing centre where the current zoning does not permit the use
- proposals to develop outside an existing centre where the current zoning does not permit the use
- proposals to create a new centre.

Assessment against the Net Community Benefit Assessment Criteria is not appropriate for a planning proposal that deals with a rural land uses in the RU1 zone.

Section B – Relationship to strategic planning framework

Q4. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The subject site is not located within the Urban Growth Area boundary under the *North Coast Regional Plan 2036 (NCRP)*. It is within the 'coastal strip' as identified in that plan.

The planning proposal is consistent with the following *Regional Priorities*, identified for Byron Shire within the Regional Plan:

- *Support a strong and diversified economy based on Byron Shire's unique character, landscapes and important farmland.*
- *Encourage new opportunities for agribusiness, particularly in relation to organic and boutique food production.*

The NCRP also contains principles that should be addressed for land that is outside that Urban Growth Area. The following table addresses these principles in relation to the planning proposal:

Urban Growth Variation Principles	
<p>Policy The variation needs to be consistent with the objectives and outcomes in the <i>North Coast Regional Plan 2036</i> and any relevant Section 117 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy.</p>	<p>Goal 1: The most stunning environment in NSW Principle 2: Manage the sensitive coastal strip The site is not contiguous with the urban growth area boundary. However, the planning proposal does not facilitate urban or rural residential development. Principle 3: Provide great places to live and work in a unique environment The planning proposal will assist in maintaining The Farm as a place to work, associated with farming activities at the site. Goal 2: A thriving, interconnected economy Direction 11: Protect and enhance productive agricultural lands Action 11.4: Encourage niche commercial, tourist and</p>

Urban Growth Variation Principles	
	<p><i>recreation activities that complement and promote a stronger agricultural sector, and build the sector's capacity to adapt to changing circumstances.</i></p> <p>The planning proposal seeks to ensure that future commercial and/ or tourism uses of the land retain an essential association with the farming activities undertaken at the site.</p> <p>In this way, future uses will compliment existing agriculture, and also facilitate new and additional smaller-scale farming ventures.</p> <p>S117 Directions and State Environmental Planning Policies are addressed below.</p>
<p>Infrastructure The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government.</p> <p>The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.</p>	<p>The planning proposal addresses existing land uses, which are serviced by way of an on-site wastewater management system. There have been a number of recent upgrades to the system and the proponent has demonstrated that the system is operating in accordance with the terms of its approval, and that it has adequate capacity to service the uses at the site. A detailed Wastewater report is attached to this Planning Proposal at Appendix C.</p> <p>The site is well-located in terms of transport routes, although investigations are currently underway to plan for future upgrades of adjacent intersections, including the motorway interchange. The Traffic Report contained at Appendix D addresses the potential impacts associated with traffic from this development.</p> <p>Significant traffic congestion is experienced at the roundabout and on Ewingsdale Road. While traffic generated by The Farm is not the sole reason for this congestion, it is a contributor. As such, preliminary discussions involving the proponents, Council and RMS have indicated a need for a variety of road improvement upgrades to address the congestion, and the need for The Farm to contribute to those solutions.</p> <p>The proponents have therefore agreed to the SP2 Infrastructure (classified road) zoning to be applied as part of this Planning Proposal, to 'reserve' the land across the Ewingsdale Road frontage of the site for future widening of that road.</p> <p>Reticulated water supply is available by way of a Rous County Council main, and is augmented by rainwater capture.</p>
<p>Environmental and farmland protection The variation should avoid areas:</p> <ul style="list-style-type: none"> • of high heritage value 	<p>While there are a number of heritage items in the locality, the site itself does not contain any items of areas with heritage value.</p>
<ul style="list-style-type: none"> • of high environmental value 	<p>The site contains some areas of environmental value, in and around Simpsons Creek, located in the eastern</p>

Urban Growth Variation Principles	
<ul style="list-style-type: none"> mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review 	<p>sector.</p> <p>The uses facilitated by the planning proposal are located away from the Simpsons Creek riparian area. The Farm management has implemented significant riparian revegetation works adjacent to Simpsons Creek.</p> <p>See discussion below</p>
<p>Land use conflict The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.</p>	<p>The potential for land use conflicts, associated with uses in the rural activities precinct, can be managed by controls on the nature and scale of development within that precinct and by the provision of appropriate buffers within the subject land.</p> <p>A Land Use Conflict Risk Assessment has been prepared in relation to the proposal, and is contained at Appendix E.</p> <p>The buffer recommendations contained in that report have been incorporated in the draft DCP amendments, with a 5m wide strip of land along the full length of the property boundary adjoining farming land to be provided as a landscaped buffer. Activities authorised by this Planning Proposal will only be permitted outside of that buffer area.</p>
<p>Avoiding risk The variation must avoid physically constrained land identified as:</p> <ul style="list-style-type: none"> flood prone bushfire prone highly erodible having a severe slope having acid sulfate soils 	<p>The site is not flood prone.</p> <p>The site is not bushfire prone.</p> <p>The slopes of the site do not present erosion risks.</p> <p>The site does not have severe slopes.</p> <p>The site does not contain acid sulfate soils.</p>
<p>Heritage The variation must protect and manage Aboriginal and non-Aboriginal heritage.</p>	<p>There are no known Aboriginal or non-Aboriginal heritage areas.</p>
<p>Coastal area Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.</p>	<p>The planning proposal does not propose to alter the existing RU1 zone other than for a 15m wide strip along the Ewingsdale Road frontage.</p>

Important Farmland Interim Variation Principles	
Agricultural capability	The land does have agricultural capability and is currently used for farming. The planning proposal seeks to facilitate non-agricultural

Important Farmland Interim Variation Principles	
	uses that are directly associated with the existing agriculture.
Land use conflict	<p>The land adjoins an existing farm to the north, which is used for macadamias and cattle. The owners of that land have concerns regarding the potential impacts of The Farm's non-agricultural uses on his ability to farm.</p> <p>In the main, these concerns can be addressed by:</p> <ul style="list-style-type: none"> controls on the nature and scale of land uses permitted within the Rural Activities Precinct; the provision of appropriate buffers between the two properties; ensuring that all disposal areas for treated wastewater flow away from the adjoining property; and ensuring that The Farm has appropriate management measures in place to address biosecurity risks. <p>These concerns are considered further in the LUCRA contained at Appendix E.</p>
Environment and Heritage	<p>The proposed land uses will not have an adverse impact on areas of high environmental value or Aboriginal or historic heritage significance.</p> <p>Environmental enhancement works have been undertaken in conjunction with The Farm uses in the riparian area of Simpsons Creek that have improved the environmental value of that creek.</p>
Avoiding Risk	The proposal raises no issues in regard to environmental risks.

Q5. Is the planning proposal consistent with Council's local strategy or other local strategic plan?

Council has recently adopted a Rural Land Use Strategy. One of the key policy directions in that strategy is the protection of important farmland and support for farming and rural industry.

The planning proposal is consistent with this policy direction in that it aims to ensure that farming remains the dominant use of the land, with uses within the activities precinct only permitted where they maintain an essential association with the onsite agriculture.

In 2012, Council adopted a 10 year + Community Strategic Plan 2022 (CSP). The plan is based on five key themes being Corporate Management, Economy, Environment, Community Infrastructure, Society and Culture. Three of those themes or objectives are relevant to this Planning Proposal:

Economy: <i>A sustainable and diverse economy which provides innovative employment and investment opportunities in harmony with our ecological and social aims</i>	The Planning Proposal supports the economy through creating employment linked to agriculture. It has the potential to create economic growth and demand without major ecological or social concerns.
Environment: <i>Our natural and built environment is improved for each generation</i>	The Planning Proposal assists the environment to be maintained and protected for future generations by restricting development to the scale currently operating at the site. The Planning Proposal does not facilitate expansion of non-agricultural activities or land uses.
Society and Culture: <i>Resilient, creative and active communities with a strong sense of local identity and</i>	The land uses at The Farm are linked to innovative agricultural enterprises, that allow for farmers to get a start in the industry.

Planning Proposal – The Farm, Ewingsdale

place

The CSP is undergoing review. On the basis of recent community engagement, it is now underpinned by the following four vision components:

<i>Our community is empowered to be creative, innovative and listened to as we shape the future way of living that we want</i>	The land uses at The Farm are linked to innovative agricultural enterprises, that allow for farmers to get a start in the industry. The existing uses facilitated by this Planning Proposal are a key part of the overall business model, providing an on-site market for the agricultural products grown on the land.
<i>While we strongly protect our Shire; its natural environment, lifestyle, diversity and community spirit, we welcome visitors and the contribution they make to our culture</i>	The Farm is a valued destination for residents and visitors, primarily to the approved restaurant. The farm tours, which will be facilitated by this Planning Proposal, provide for an additional visitor experience, which showcases the local area's agricultural expertise.
<i>Our future is sustainable, we have the services and infrastructure we need to thrive, and we encourage and support local business and industry</i>	The Planning Proposal facilitates local business.
<i>We foster the arts and cultural activities, respect and acknowledge our first peoples and celebrate and embrace diverse thinking and being</i>	Not directly applicable.

On this basis the Planning Proposal is consistent with Council's CSP.


Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The State Environmental Planning Policies (SEPP) relevant to this planning proposal are addressed below.

SEPP	Compliance of Planning Proposal
SEPP 44 Koala Habitat Protection	The site does not contain any koala habitat.
SEPP 55 Remediation of Land	Preliminary site investigations were undertaken in association with previous development proposals for the site, demonstrating that the land is suitable for the uses approved.
SEPP (Coastal Protection) 2018	The Coastal Wetland mapping has been extended from the previous SEPP 14 mapping and now covers watercourses in the coastal zone. As such, the low lying area of the site and the eastern watercourse are mapped as Coastal Wetland under this SEPP (see below)

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Planning Proposal – The Farm, Ewingsdale

	 <p>The Planning Proposal does not facilitate any uses of the site that would physically impact these wetland areas.</p>
SEPP (Primary Production and Rural Development) 2019	The Planning Proposal is consistent with the objectives of this SEPP as they are intended to facilitate the “orderly economic use and development of lands for primary production”.

Q7. Is the planning proposal consistent with applicable local planning directions issued by the Minister (s9.1 directions)?

Unless otherwise noted the Planning Proposal is consistent with applicable Ministerial Directions as follows:

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	Not applicable.	N/A
1.2 Rural Zones	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>Under this direction a planning proposal must:</p> <ul style="list-style-type: none"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). 	<p>The Planning Proposal does not aim to change the existing rural zoning of the site to a residential, business, industrial, village or tourist zone.</p> <p>The Proposal does not alter lot size or density provisions.</p>	Consistent.

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S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	Nothing in this Planning Proposal will prohibit or restrict exploration or mining or the extraction of other material.	N/A
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate", or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses.	The Planning Proposal does not impact on any Priority Oyster Aquaculture Areas (POAA).	N/A
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. A planning proposal to which clauses (a) or (b) apply must be address the provisions in Part 4 of the Direction	The Principles outlined in part 4 of this Direction are addressed in the table below. It is considered that the Planning Proposal is consistent with all of the relevant rural planning provisions.	Consistent

Part 4: A planning proposal must:	
<i>be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement</i>	Council has not yet adopted a local strategic planning statement. Consistencies with the relevant local strategy is addressed above.
<i>consider the significance of agriculture and primary production to the State and rural communities</i>	The Planning Proposal is consistent in that it provides a mechanism that will ensure the continuing viability of the innovative, small scale farming model undertaken on the site. Permitting agricultural education / training uses will provide for opportunities to educate the wider community about the importance of agriculture.
<i>identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</i>	The planning proposal does not facilitate any uses that have the potential in negatively impact such values.
<i>consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</i>	As above.
<i>promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</i>	The Planning Proposal is consistent in that it provides a mechanism that will ensure the continuing viability of the innovative, small scale farming model undertaken on the site.
<i>support farmers in exercising their right to farm</i>	As above – also local controls within the proposed addition to Byron DCP will ensure that potential land use conflicts with adjoining farming activities will be avoided.
<i>prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses</i>	As above.
<i>consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land</i>	The land is not identified as State Significant.
<i>consider the social, economic and environmental interests of the community</i>	The planning proposal provides a mechanism that will ensure the continuing viability of the innovative, small scale farming model undertaken on the site, which will have positive

Planning Proposal – The Farm, Ewingsdale

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2. Environment and Heritage			
2.1 Environment Protection Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “<i>Rural Lands</i>”.</p>	The Planning Proposal does not alter or remove any environment protection zone.	N/A
2.2 Coastal Management	Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.	The land affected by this Proposal is located outside of the coastal zone.	N/A
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	This Planning Proposal does not impact on any areas or items of heritage significance.	N/A

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Planning Proposal – The Farm, Ewingsdale

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2.4 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	The proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	This direction applies when a planning proposal introduces or alters an E2 or E3 zones or environmental overlays	The proposal does not involve any environmental zones or overlays	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted.	The planning proposal does not affect residential zoned land.	N/A
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a planning proposal that identifies suitable zones, locations and provisions for caravan parks.	Not applicable to this planning proposal.	N/A
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	This proposal does not alter home occupation provisions in Byron LEP 2014.	N/A
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Not applicable to this planning proposal.	N/A
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	The planning proposal will not alter provisions on land in the vicinity of the Tyagarah aerodrome.	N/A
3.6 Shooting ranges	Applies when a relevant planning authority prepares a planning proposal that will impact on land adjacent to an existing shooting range.	Not applicable to this planning proposal.	N/A

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Planning Proposal – The Farm, Ewingsdale

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
3.7 Reduction in non-hosted short term rental accommodation period	This direction applies to Byron Shire Council, when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in.	Not applicable to this planning proposal.	N/A
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	The land is not mapped as being affected by Acid Sulfate Soils.	N/A
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a mine subsidence district.	This proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The land is not flood prone.	N/A
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.	The land is not identified as being Bushfire Prone.	N/A
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	See above.	Consistent.
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The proposal is not within this catchment.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	The land is mapped as Regionally Significant Farmland. The planning proposal does not propose to alter the existing RU1 Primary Production zoning other than a small section adjacent to Ewingsdale Road to reserve this area for future road widening. The draft provisions will ensure that non-farming uses are only permitted where there is an essential association with agriculture on the land.	Consistent
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Applies to a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway, with provisions for “within town” and out-of-town” segments. For “out-of-town” segments, the proposal must provide that: <i>new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction;</i> <i>development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway;</i>	There are existing traffic congestion issues which affect the Pacific Highway. Traffic from the unauthorised uses at The Farm, while not the sole cause or significant contributor to this congestion, nonetheless contributes to traffic volumes at the Highway interchange, which is currently experiencing capacity issues. Council and RMS are currently working on road upgrades in this locality which will address these issues. Zoning of the Ewingsdale Road frontage of the site to SP2 Infrastructure (classified road) will ‘reserve’ that land for future road widening, which has been identified as part of the upgrade solutions.	Consistent
5.10 Implementation of Regional Plans	A planning proposal must be consistent with a Regional Plan released by the Minister for Planning.	See Section B above	Consistent
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring	The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	N/A

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S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), <p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 		
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	Preliminary discussions with Transport for NSW Roads and Maritime indicate support for the proposed SP2 Infrastructure (classified road) zoning along the Ewingsdale Road frontage of the property.	Consistent
6.3 Site Specific Provisions	<p>Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning</p>	<p>The planning proposal will facilitate nominated development to be carried out.</p> <p>Specific controls are proposed in relation to those uses, to ensure that they remain</p>	Justifiably inconsistent.

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Planning Proposal – The Farm, Ewingsdale

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>instrument in order to allow a particular development proposal to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	<p>consistent with the primary production zoning of the land.</p> <p>It is considered that the additional local clause is the appropriate mechanism in this case, rather than changing the zoning of the land, in order to retain the overall agriculture focus and objectives for the site</p>	

Section C – Environmental, social and economic impact

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The amendments proposed will not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are negligible environmental effects likely as a result of the minor amendments and corrections outlined in this Planning Proposal.

Q10. Has the planning proposal adequately addressed any social and economic impacts?

The maintenance of land uses at the site which facilitate and support the existing agricultural activities results in a number of social and economic benefits for the locality, area and region.

Section D – State and Commonwealth interests

Q11. Is there adequate public infrastructure for the planning proposal?

There is adequate public road infrastructure provision at the moment, but planning is underway for the future upgrade of the local road network in this area, which will benefit the site. The Traffic report contained at **Appendix D** addresses, among other things, potential impacts on adjoining State road infrastructure.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

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Transport for NSW Roads and Maritime has been involved in this Planning Proposal in relation to the proposed SP2 Infrastructure zone and future upgrade solutions to the local and State road network.

Other agencies will have an opportunity to input following Gateway Determination.

Part 4 Mapping

Finalisation of the Planning Proposal will involve an update to the **Land Zoning Map** and introduce a **Local Provisions Map** linked to the new proposed clause. This map will specifically reference the clause and illustrate the site and the location and extent of the nominated activity precincts. A draft local provisions map and land zoning map is contained at **Appendix A**.

Part 5 Community Consultation

Land owner and community engagement will continue to be an important component of this planning proposal process. Engagement activities to date have included:

- Site meetings and discussions with The Farm management, with both Councillors and staff;
- On-site meetings with the adjoining farmers / land owners;
- Discussions with local Ewingsdale residents.

In addition to any consultation requirements that may come with a Gateway Determination, the following activities are also proposed:

- Dialogue and meetings with The Farm management and their representatives to ensure that Council's objectives continue to be clearly communicated and understood;
- Provision of supporting reports etc. to adjoining farmers and meetings with those land owners (at their farm) to ensure Council continues to understand and respond to their issues of concern;
- Attendance at meetings of the Ewingsdale Progress Association to keep members informed throughout the process and ensure that Council staff and Councillors remain aware of local issues and concerns; and
- Wider consultation with the Byron community.

Part 6 Project Timelines

An indicative project timeline is provided in the table below:

Plan making step	Estimated Completion
Gateway Determination	March 2020
Government Agency consultation	April 2020
Public Exhibition Period	April 2020(30 days)
Submissions Assessment	June 2020
Council assessment of planning proposal & exhibition outcomes	June 2020
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	July 2020
Council to make the LEP amendment (delegated authority)	September 2020
Forwarding of LEP amendment to Department of Planning & Environment for notification (if delegated)	October 2020

Conclusion

This Planning Proposal seeks to introduce a new local clause into Byron LEP 2014 to provide for a range of land uses at The Farm, Ewingsdale, that are ancillary to and supportive of the farming activities being carried out on the land. It will also apply a zoning of SP2 Infrastructure (Classified Road) to a 20m wide strip of land along the Ewingsdale Road frontage of the property.

The specific provisions will ensure that primary production remains the dominant use of the land, and that the additional uses will have and maintain an essential association with that farming. These uses provide an on-site market for the produce and assist to ensure the ongoing viability of the agricultural activities.

Issues associated with potential land use conflicts can be addressed during the planning proposal process, primarily through the provision on appropriate buffers within the site.

This Planning Proposal will not impact on environmental areas nor create unreasonable demand on urban infrastructure.

This Planning Proposal will have positive social and economic effects by offering additional agricultural employment and trading opportunities for local people and businesses.

The proposed LEP amendments are generally consistent with the North Coast Regional Plan 2036 and Council's Rural land Use Strategy. An assessment of the planning proposal indicates that it is consistent with relevant SEPPs and all relevant s9.1 Directions.

There is sufficient information to enable Council to support the planning proposal and forward it to the Department of Planning and Environment for a Gateway determination.

Appendix A Proposed LEP Amendments

The following clause is proposed to be added to Section 6 of Byron LEP 2104:

6.xx Use of certain land at The Farm, Ewingsdale Road, Ewingsdale

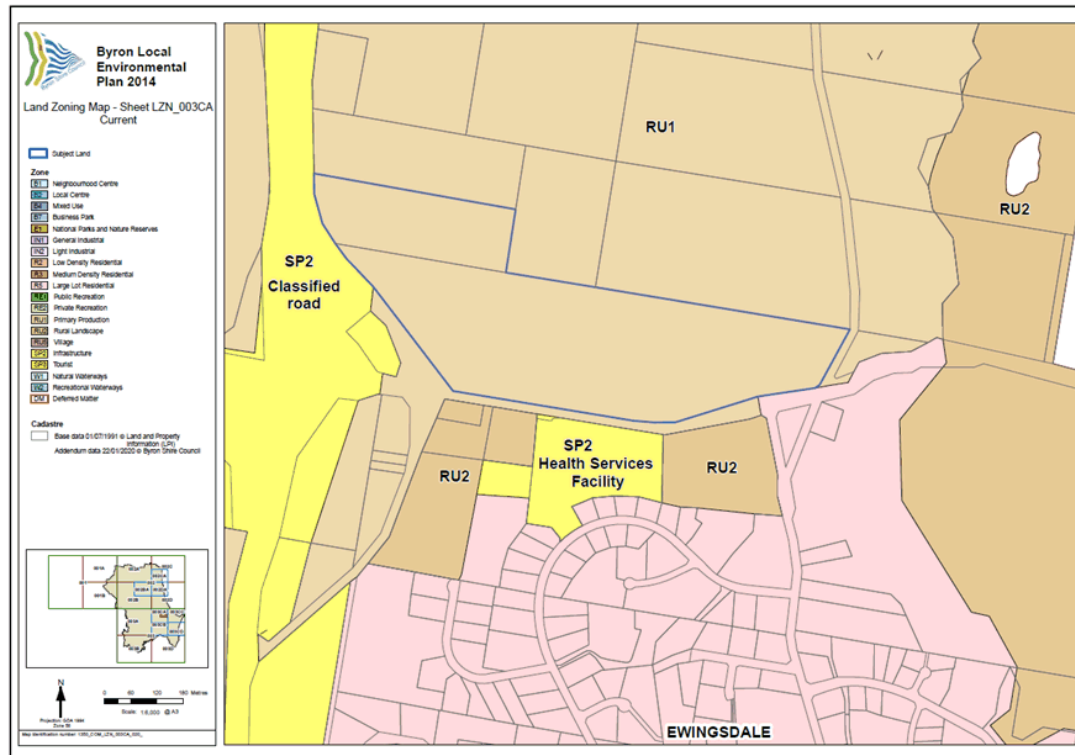
- (1) *This clause applies to land at Ewingsdale Road, Ewingsdale (known as The Farm) being Lot 1, DP 780234 and Lot 5, DP 848222, and identified as "Area F" on the Local Provisions Map.*
- (2) *The purpose of the **Rural Activity Precinct** shown on the Local Provisions Map is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming.*
It applies to the part of the land containing a cluster of existing buildings, located in the south-west corner of the property (see Map).
- (3) *Within the **Rural Activity Precinct** shown on the Local Provisions Map, development for the following purposes is permitted with consent:*
 - (a) *Development for the purposes of an artisan food and drink industry, being a bakery;*
 - (b) *Development for the purposes of an information and education facility, being areas utilised for the provision of small group training;*
 - (c) *Development for the purposes of office premises, utilised solely for the management of agricultural or ancillary businesses that are conducted on the property; and*
 - (d) *Development for the purposes of an information and training facility, being for the display of information relating to the property and its uses, or as a gathering point for individuals and groups undertaking training, education or recreational activities at the site.*
- (4) *The purpose of the **Farming Precinct** shown on the Local Provisions Map is to preserve the bulk of the property for primary production and facilitate innovative community farming models.*
*It applies to all areas outside of the **Rural Activity Precinct**.*
- (5) *The secondary purpose of the **Farming Precinct** is to provide opportunities for agricultural education/ appreciation and low-scale recreational activities that are directly related to primary production.*
- (6) *Within the **Farming Precinct** shown on the Local Provisions Map, development for the following purposes is permitted with consent:*
 - (a) *Farm field days and exhibitions;*
 - (b) *Farm tours for educational purposes, including individuals, school groups, and other groups of up to 30 people at a time.*

Local Provisions Map

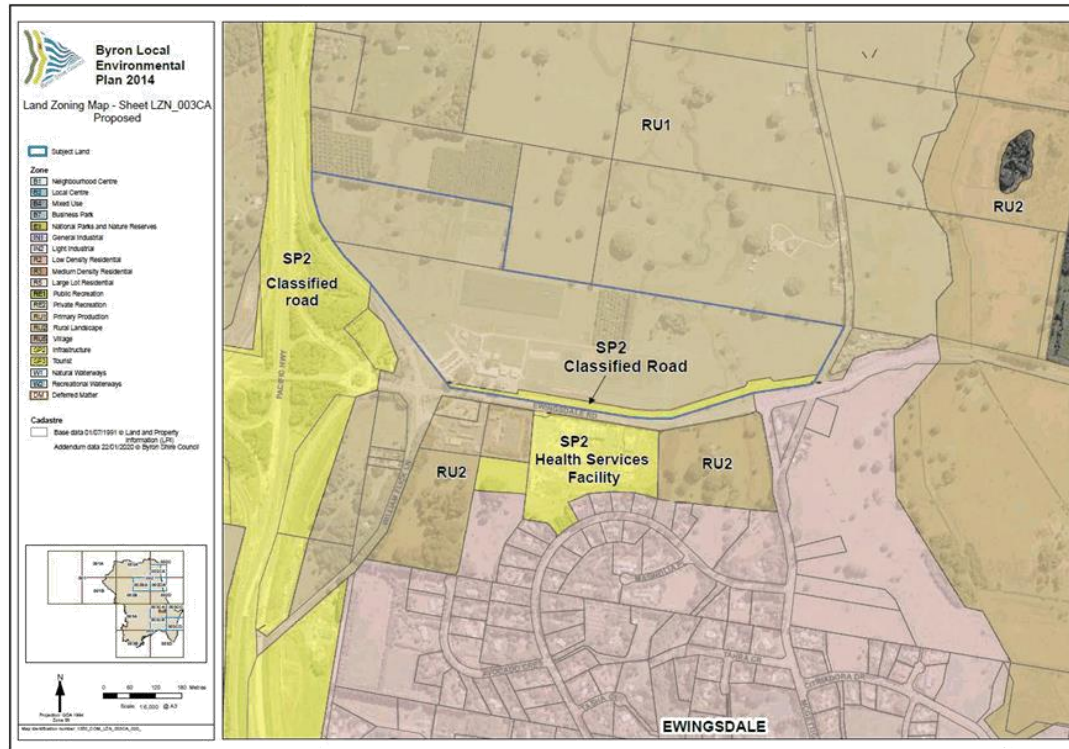
This will be the first Local Provisions Map in the Byron LEP 2014.



Current Zoning



Proposed Zoning



Appendix B Suggested DCP Amendment

E5.8 The Farm

E5.8.1 Where this Section Applies

This section applies to land at Ewingsdale Road, Ewingsdale, known as The Farm; being Lot 1, DP 780234 and Lot 5, DP 848222, as shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014.

Clause 6.xx of the Byron Local Environmental Plan 2014 specifies a number of land uses that are permissible on the site, which are additional to those permitted in the zoning table to the LEP.

The provisions in this Part of Chapter E5 relate to the land uses permitted in that Clause. They do not apply to other land uses permitted within the RU1 Primary Production zone.

In the event of any inconsistency between this Section and other Chapters in this DCP, the provisions of this Section shall prevail.

E5.8.2 Objective of this Section

The objective of this Section is to outline planning controls to regulate the additional land uses permitted under the provisions of Clause 6.xx of Byron Local Environmental Plan 2014.

E5.8.3 Rural Activity Precinct

The location and extent of the Rural Activity Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to the part of the land containing a cluster of existing buildings, located in the south-west corner of the property.

Objectives:

The objective of the Rural Activity Precinct is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming

Performance Criteria:

1. Land uses within the Rural Activity Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

Prescriptive Measures:

1. An artisan food and drink industry, being a bakery, must be located within an existing building, and used for the preparation and sale of bread and other bakery goods, provided that a majority of the products contain ingredients sourced directly from the property;
2. An information and education facility, must utilise areas within existing buildings or their immediate curtilage, and provide small group training where that training is related to agriculture or rural industry, excluding training relating to marketing and/ or administration aspects of agriculture;
3. Development consent must not be granted for any use within the Rural Activity Precinct shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
 - (a) the use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhanced agricultural production on the site;
 - (b) the use will not limit the operation and/ or expansion of adjoining and nearby agricultural uses;

- (c) wastewater generated by the proposed use will be within the treatment and disposal capacity of the approved on-site wastewater management system;
- (d) there are no new or additional buildings proposed on the site;
- (e) traffic generated by the proposed use will not result in total peak hour trips (i.e. from the site as a whole), exceeding 200 trips outside of school holiday periods or 350 trips during holiday periods;
- (f) individual events undertaken within agricultural training/ education facilities involve a maximum of 30 people, with the exception of school groups, which can have more participants; and
- (g) there will be no more than 1 training/ education event per week within the agricultural training/ education facilities.

E5.8.4 Farming Precinct

The location and extent of the Farming Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to all of the property outside of the Rural Activity Precinct.

Objectives:

The objective of the Farming Precinct is to provide for primary production on the land and opportunities for the community to learn about and appreciate farming.

Performance Criteria:

1. Land uses within the Farming Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

Prescriptive Measures:

1. Development consent must not be granted for a farm field day or exhibition within the **Farming Precinct** shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
 - (a) there are a maximum of 4 such events in any calendar year;
 - (b) there are no more than 100 people attending any individual event;
 - (c) events are scheduled such that event traffic avoids morning and afternoon peak hour periods;
 - (d) events will not occur concurrently with any use of the agricultural training / education facilities within the Rural Activities Precinct;
 - (e) a Noise Management and Monitoring Plan has been prepared for each event, including:
 - details to ensure adequate measures, roles and responsibilities are in place to ensure that event noise remains inaudible above background levels at nearby dwellings;
 - assessment of expected noise impacts;
 - detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts
 - strategies to promptly deal with and address noise complaints. This should include any records that should be kept in receiving and responding to any noise complaints;
 - details of performance evaluating procedures (for example, sound checks on amplified public address systems);
 - procedures for notifying nearby residents living within 1 kilometre of the property of forthcoming events, times that they are likely to notice noise emanating from the site and

Planning Proposal – The Farm, Ewingsdale

the contact details for the onsite manager for complaints and queries to be made, and responded to;

- operational details about the use of any noise monitoring equipment to record sound pressure levels around the property;
 - name and qualifications of person who prepared the report; and
 - protocols for the monitoring of the event, including a requirement that a report be provided to Council following the event.
2. A continuous strip of land, with a minimum width of 5m, is to be provided along all boundaries that adjoin privately owned farm land. That 5m strip is to be densely landscaped to provide a visual screen between the properties.

Appendix C Wastewater Report

NOTE – REMAINDER OF APPENDICES NOT INCLUDED IN THIS VERSION

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Appendix D Traffic Report

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Appendix E LUCRA

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Appendix F Social Impact Assessment

Appendix G Economic Impact Assessment

Draft Addition to Chapter E5 – Certain Locations in Byron Bay and Ewingsdale

Add the following new section in this Chapter:

E5.8 The Farm

E5.8.1 Where this Section Applies

This section applies to land at Ewingsdale Road, Ewingsdale, known as The Farm; being Lot 1, DP 780234 and Lot 5, DP 848222, as shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014.

Clause 6.xx of the Byron Local Environmental Plan 2014 specifies a number of land uses that are permissible on the site, which are additional to those permitted in the zoning table to the LEP.

The provisions in this Part of Chapter E5 relate to the land uses permitted in that Clause. They do not apply to other land uses permitted within the RU1 Primary Production zone.

In the event of any inconsistency between this Section and other Chapters in this DCP, the provisions of this Section shall prevail.

E5.8.2 Objective of this Section

The objective of this Section is to outline planning controls to regulate the additional land uses permitted under the provisions of Clause 6.xx of Byron Local Environmental Plan 2014.

E5.8.3 Rural Activity Precinct

The location and extent of the Rural Activity Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to the part of the land containing a cluster of existing buildings, located in the south-west corner of the property.

Objectives:

The objective of the Rural Activity Precinct is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming

Performance Criteria:

1. Land uses within the Rural Activity Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

Prescriptive Measures:

1. An artisan food and drink industry, being a bakery, must be located within an existing building, and used for the preparation and sale of bread and other bakery goods, provided that a majority of the products contain ingredients sourced directly from the property;
2. An information and education facility, must utilise areas within existing buildings or their immediate curtilage, and provide small group training where that training is related to agriculture or rural industry, excluding training relating to marketing and/ or administration aspects of agriculture;

3. Development consent must not be granted for any use within the Rural Activity Precinct shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
 - (a) the use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhanced agricultural production on the site;
 - (b) the use will not limit the operation and/ or expansion of adjoining and nearby agricultural uses;
 - (c) wastewater generated by the proposed use will be within the treatment and disposal capacity of the approved on-site wastewater management system;
 - (d) there are no new or additional buildings proposed on the site;
 - (e) traffic generated by the proposed use will not result in total peak hour trips (i.e. from the site as a whole), exceeding 200 trips outside of school holiday periods or 350 trips during holiday periods;
 - (f) individual events undertaken within agricultural training/ education facilities involve a maximum of 30 people, with the exception of school groups, which can have more participants; and
 - (g) there will be no more than 1 training/ education event per week within the agricultural training/ education facilities.

E5.8.4 Farming Precinct

The location and extent of the Farming Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to all of the property outside of the Rural Activity Precinct.

Objectives:

The objective of the Farming Precinct is to provide for primary production on the land and opportunities for the community to learn about and appreciate farming.

Performance Criteria:

1. Land uses within the Farming Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

Prescriptive Measures:

1. Development consent must not be granted for a farm field day or exhibition within the **Farming Precinct** shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
 - (a) there are a maximum of 4 such events in any calendar year;
 - (b) there are no more than 100 people attending any individual event;
 - (c) events are scheduled such that event traffic avoids morning and afternoon peak hour periods;
 - (d) events will not occur concurrently with any use of the agricultural training / education facilities within the Rural Activities Precinct;

- (e) a Noise Management and Monitoring Plan has been prepared for each event, including:
- details to ensure adequate measures, roles and responsibilities are in place to ensure that event noise remains inaudible above background levels at nearby dwellings;
 - assessment of expected noise impacts;
 - detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts
 - strategies to promptly deal with and address noise complaints. This should include any records that should be kept in receiving and responding to any noise complaints;
 - details of performance evaluating procedures (for example, sound checks on amplified public address systems);
 - procedures for notifying nearby residents living within 1 kilometre of the property of forthcoming events, times that they are likely to notice noise emanating from the site and the contact details for the onsite manager for complaints and queries to be made, and responded to;
 - operational details about the use of any noise monitoring equipment to record sound pressure levels around the property;
 - name and qualifications of person who prepared the report; and
 - protocols for the monitoring of the event, including a requirement that a report be provided to Council following the event.
2. A continuous strip of land, with a minimum width of 5m, along all boundaries that adjoin privately owned farm land. That 5m strip is to be densely landscaped to provide a visual screen between the properties.

Schedule 3 Form of special disclosure of pecuniary interest

submitted under Clause 4.25 of the Code of Conduct for Councillors

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.24(c) of the Byron Shire Council Code of Conduct for Councillors (the Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

[name of council or council committee (as the case requires)]

Report No. _____ to be held on the _____ day of _____ 201

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10 - ATTACHMENT 3

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (<i>the identified land</i>)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has interest in the land (e.g. is owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest⁹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (<i>the subject land</i>) ¹⁰ [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

⁹ Clause 4.1 of the Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.

¹⁰ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Code of Conduct has a proprietary interest.



Planning Proposal
For short term rental accommodation in
Byron Shire

(Byron Shire Council)

Authority ref: 26.2020.1.1

V1 Pre-Gateway Version (#E2020/5132)

6/2/2020

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Part 1 Introduction and background

1.1. Summary of Planning Proposal

The purpose of this Planning Proposal is to introduce new provisions into Byron Local Environmental Plan 2014 to define short term rental accommodation (STRA), and to introduce planning controls that will improve the management of STRA in the Byron Shire.

Two categories of STRA will be defined:

- (1) Hosted STRA – where there is a 'host' residing in the premises during the period of accommodation.
- (2) Non hosted STRA – where there is no 'host' residing in the premises during the period of accommodation.

The new provisions will establish the circumstances in which STRA is permitted as exempt development and the circumstances in which it will be permitted with consent through a development application process.

Non-hosted STRA will be limited to a maximum of 90 days per calendar year. Hosted accommodation will not be subject to time limitations.

In addition, non-hosted STRA will be excluded from certain Council owned and/or managed lands, and land identified in a State Government or Council strategy or environmental planning instrument for future residential development. This is to ensure new land required to meet future population growth will not be utilised for STRA.

In particular, the following amendments are proposed:

1. The addition of a new land use definition for *short term rental accommodation* in the LEP 2014 dictionary. Sub-definitions for *hosted short term rental accommodation* and *non-hosted short term rental accommodation* will also be added.
2. The addition of *short term rental accommodation* as a permitted use in all land use zones where dwellings are permitted.
3. The addition of a new mapping overlay to identify land where short term rental accommodation will not be permitted.
4. The addition of a new local provision that will establish matters for consideration when assessing a development application for STRA. Provisions will also be added that:
 - a. Prohibit a dwelling from being used for non-hosted STRA where it is located on land identified by the STRA exclusion map.
 - b. Prohibit a dwelling from being used for non-hosted STRA for more than 90 days per calendar year, and
 - c. Restrict the number of persons occupying a dwelling being used for non-hosted STRA to no more than 2 persons per bedroom, up to a maximum of 12 persons in total, whichever is the lesser.

5. The addition of a new clause into Schedule 2 of Byron LEP 2014 that will allow hosted and non-hosted short term rental accommodation as exempt development subject to certain requirements. Non-hosted accommodation will be limited to 90 days per year and will not be permitted on land identified in the short term rental accommodation exclusion map. Hosted accommodation will be permitted 365 days per year.

1.2. Background

Short term rental accommodation, commonly known as 'holiday letting', refers to the use of an existing dwelling to provide temporary short term accommodation on a commercial basis. The relatively recent advent of online booking platforms such as Airbnb has led to a rapid expansion in the STRA sector across Australia and particularly in Byron Shire. The last five years have seen significant growth.

Research into Airbnb and HomeAway, the two largest Australian booking platforms, indicates that approximately 25% of dwellings in Byron Shire and 62% of dwellings in Byron Bay were listed on the platforms by 1 November 2019. To put these figures in context, there are more Airbnb listings in Byron Shire than all the other Northern Rivers Local Government Areas (LGA's) combined, and more listings than any LGA in the Greater Sydney Region except for Sydney and Waverly. This is particularly concerning given the relatively low population and supply of housing in Byron Shire compared to these metropolitan LGA's.

The high concentration of STRA has environmental, economic and social implications for the community. As STRA has spread, Council has received increased reports of conflict over noise and antisocial behaviour, coupled with broader concerns over the availability of rental housing, worsening affordability and an increasing sense of dislocation from community.

1.2.1 Previous attempts to regulate

In 2015, Byron Shire Council attempted to regulate STRA through a Planning Proposal to amend Byron Local Environmental Plan 2014 (LEP 2014). The proposed amendments involved permitting STRA as exempt development for dwellings comprising three bedrooms used for less than 90 days per calendar year. For dwellings that could not satisfy the exempt provisions, an enabling clause was proposed that would allow approval to be obtained via a development application process.

The Planning Proposal received a gateway determination on 31 August 2015 and went through a number of iterations over a two year process. It was eventually submitted to the former Department of Planning and Environment (the Department) for completion following a final round of amendments in April 2017.

At the same time, a Parliamentary inquiry into the adequacy of the regulation of short-term holiday letting was underway in response to growing public concern over STRA in NSW. The inquiry's final report to Government concluded that STRA should be defined and enabled through the planning system as exempt or complying development, supported by a compliance system and a code of conduct. The Government offered qualified support for most of the recommendations, indicating that an options paper would be prepared to implement a whole of government framework in the near future.

As a consequence of this announcement, the Department chose to defer making a decision on Council's Planning Proposal until after the release of an options paper outlining the intended regulatory approach. The impasse resulted in Council resolving to withdraw the Planning Proposal as it did not make sense to continue until it was known how it would interact with the new framework.

1.2.2. State Planning Framework

Since the withdrawal of the previous Planning Proposal, the Department has released an options paper on short-term holiday letting in July 2017 and exhibited an explanation of intended effect outlining a whole of government framework in October 2018. This was followed by the release of the draft regulatory framework for STRA in NSW in August 2019, comprising a new state environmental planning policy, fire safety standards, code of conduct and clarified Strata laws. The Department invited public submissions on the draft framework, which closed on 11 September 2019.

The proposed *State Environmental Planning Policy (Short Term Rental Accommodation) 2019* is a new SEPP created to provide State-wide land use planning controls for short term rental accommodation. Under the SEPP, STRA will be permissible as either exempt or complying development, subject to a number of requirements for zoning, dwelling type, occupancy, and fire safety.

Non-hosted accommodation will be limited to a maximum of 180 days per year in the Greater Sydney Region and for other nominated LGA's. Ballina, City of Lake Macquarie, Clarence Valley and Muswellbrook were identified in the draft SEPP (Byron Shire was not nominated). Other areas will not be subject to time limitations.

Supporting the new SEPP will be a code of conduct under the *Fair Trading Act 1987*, along with new fire safety regulations and clarified Strata laws. None of the proposed rules have come into force yet.

1.2.3. Ministerial Planning Direction 3.7 – Reduction in non-hosted short-term rental accommodation period

On 15 February 2019, approximately six months after the announcement of the STRA reforms, a Ministerial Planning Direction was issued to address the high concentration of short term rental accommodation in the Byron Shire. The Direction provides Byron Shire Council with the opportunity to reduce non-hosted short-term rental accommodation to a minimum of 90 days per calendar year, as long as there is a sound base of evidence to support the proposed changes.

Part of Byron Shire Council's submission on the draft regulatory framework in August 2019 was a request to be excluded from the proposed SEPP. Unless this occurs, it will not be possible to implement local planning controls including the reduced limits on non-hosted STRA allowed by the Ministerial Direction.

The proposed LEP amendments in this Planning Proposal have been drafted with the aim of replacing the planning controls in the SEPP as they apply to the Byron Shire.

1.2.4. Existing planning controls

Council's current position is that the use of a dwelling for STRA would in most cases be characterised as *tourist and visitor accommodation*. Tourist and visitor accommodation is prohibited in residential zones under *Byron Local Environmental Plan 2014*, which raises implications for the legality of many dwellings predominantly used for STRA at the current time.

Council previously resolved (17-263) to lift moratorium on prosecutions for STRA, and authorised the General Manager to issue notices where there was a reasonable suspicion of unauthorised short term rental accommodation taking place. Council's community

enforcement team began collecting evidence against a number of dwellings allegedly used for STRA, but action was eventually paused given the perceived immanency of new planning rules that would legitimise the activities. The pause on compliance action remains in place.

Part 2 Objectives and Intended Outcomes

2.1 Planning Proposal aims

The aim of the Planning Proposal is to minimise the impacts of Short Term Rental Accommodation activity on permanent rental housing supply, residential amenity, local character and community; while still allowing for a diversity in type and tenure of visitor accommodation options in Byron Shire.

Part 3 Explanation of provisions

3.1. Byron LEP 2014

To achieve the intended outcomes, this Planning Proposal seeks to amend Byron LEP 2014 in the manner described below. A summary of the proposed LEP amendments is included in **Appendix 4**.

3.1.1. Definitions

A new land use definition will be required to differentiate *short term rental accommodation* from *tourist and visitor accommodation*. The definition shown below has been borrowed from the draft *State Environmental Planning Policy (Short Term Rental Accommodation) 2019*. This has been done to ensure consistency with the proposed State-wide regulatory framework for STRA and any future changes to the standard instrument or any other EPI's.

short-term rental accommodation means an existing dwelling—

- (a) *that is lawfully used by the owner, tenant or permanent resident of the dwelling (the host) to provide accommodation on a commercial basis for a temporary or short-term period, with or without the host residing on the premises during that period, and*
- (b) *that, if it were used predominantly as a place of residence, would be one of the following types of residential accommodation—*
 - (i) *an attached dwelling,*
 - (ii) *a dual occupancy,*
 - (iii) *a dwelling house,*
 - (iv) *multi dwelling housing,*
 - (v) *a residential flat building,*
 - (vi) *a rural workers' dwelling,*
 - (vii) *a secondary dwelling,*
 - (viii) *a semi-detached dwelling,*
 - (ix) *shop top housing*

non-hosted short-term rental accommodation means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.

hosted short-term rental accommodation means short-term rental accommodation provided where the host resides on the premises during the provision of the accommodation.

host—see the definition of short-term rental accommodation

permanent resident of a dwelling means a person who permanently resides at the dwelling.

tenant has the same meaning as in the Residential Tenancies Act 2010.

3.1.2. Land use table

To achieve the intent of the Planning Proposal, it will be necessary to amend the land use table in LEP 2014 to make STRA permissible in all land use zones where dwellings are permitted with consent.

The following zones will be affected:

- RU1 Primary Production;
- RU2 Rural Landscape;
- RU 5 Village;
- R2 Low Density Residential;
- R3 Medium Density Residential;
- R5 Large Lot Residential;
- Zone B1 Neighbourhood Centre (Shop top housing only);
- Zone B2 Local centre (Shop top housing only);
- Zone B4 Mixed Use.

3.1.3. Short term rental accommodation exclusion map

It is intended that STRA will be excluded from certain Council owned or managed land and land identified in a State or Council strategy or environmental planning instrument for new residential development. This will be achieved through a new mapping overlay, known as the short term rental accommodation exclusion map. The map will identify lands where non-hosted STRA will not be permitted. A map of proposed excluded lands is included in **Appendix 3**.

3.1.4. Matters for consideration

The assessment process will be guided by a new local provisions clause under Part 6 of LEP 2014. The clause will provide relevant matters for consideration and establish certain pre-requisites and prohibitions.

In summary, the new clause will:

- Establish the aims and objectives and matters to be considered when assessing a development application for short-term rental accommodation.
- Set out certain matters for consideration for potential impacts on neighbourhood amenity and the adequacy of parking and wastewater.
- Prohibit a dwelling from being used for non-hosted STRA for more than 90 days per calendar year.
- Prohibit a dwelling from being used for non-hosted STRA where it is located on land identified by the STRA exclusion map.
- Restrict the number of persons occupying a dwelling being used for non-hosted STRA to no more than 2 persons per bedroom, up to a maximum of 12 persons in total, whichever is the lesser.

3.1.5. Exempt development

Certain low-impact activities are intended to be permitted as exempt development. This will be achieved by inserting a new clause into Schedule 2 of Byron LEP 2014 that will allow

hosted and non-hosted short term rental accommodation as exempt development in the following circumstances:

- Hosted accommodation allowed 365 days per calendar year;
- Non-hosted accommodation limited to 90 days per calendar year;
- Non-hosted accommodation not permitted on bush fire prone land or flood prone land;
- Non-hosted accommodation not permitted on land identified on the short term rental accommodation exclusion map.
- The dwelling must not be a (or be part of), a group home, a hostel, seniors housing, an eco tourist facility, tourist and visitor accommodation, a camping ground, caravan park or a moveable dwelling.
- The dwelling must not be approved under the Affordable Rental Housing State Environmental Planning Policy 2008.
- Occupancy limited to 2 persons per bedroom, up to a maximum of 12 persons in total, whichever is the lesser;
- Requires property to be included on a Council register of short term rental accommodation
- Requires compliance with fire safety standards under the BCA and EP&A regulations.
- Requires an A3 sign to be placed at the front of the property advising the public of the landowners or property manager's details to enable complaints to be made and wording to advise that the property is registered with Byron Shire Council.
- Minimum requirement for car parking of 1 space for a two bedroom dwelling and two carparks for a dwelling with three bedrooms or more.
- Dwellings not connected to reticulated sewer must be serviced by an approved on-site waste water management system with a current approval to operate.

Hosts who do not meet the exempt provisions will have the option of seeking consent by lodging a development application. The intent of these provisions is to acknowledge there is a mix of STRA operators, with many casual participants having minimal impact.

3.1.6. Registration

Adequate monitoring and enforcement of the planning controls will be extremely difficult without a STRA register to provide information to Council about which properties are used for STRA and the number of days that properties are let.

It is intended that the registration process would be tied to the planning system through specific exempt development provisions or conditions of consent.

Council is currently investigating options for a local STRA register to be implemented through Council's fees and charges under section 608 Local Government Act 1993. Annual fees levied for STRA registration would fund the establishment of the register and its ongoing operation and maintenance by staff; as well as inspections of properties required to ensure compliance with the conditions for STRA. Third party software solutions for registration and monitoring systems are also currently being investigated to assist in this regard.

A registration system to support the planning controls will be exhibited concurrently with the Planning Proposal.

Part 4 Justification

4.1. Section A – Need for the Planning Proposal

Q1 Is the Planning Proposal a result of any strategic study or report?

This Planning Proposal has been informed by a detailed analysis of Airbnb and HomeAway listings in the Byron Shire.

In summary, the listings analysis identified a very high concentration of Airbnb and HomeAway listings in the Byron Shire. When considered as a proportion of dwellings, Airbnb and HomeAway listings equate to 25% of dwellings in the Shire and 62% of dwellings in Byron Bay. A full breakdown of the data is included in **Appendix 1**.

The Planning Proposal has also been informed by researchers from Southern Cross University who have undertaken two studies into the impacts of Airbnb in the Byron Shire. The first study, conducted in 2019, involved a series of in-depth interviews and a survey on the perceptions of Byron Shire residents on the impacts of Airbnb. Respondents acknowledged the economic benefits of increased tourism, but noted negative effects on the availability of housing, affordability, residential amenity and a perceived loss of neighbourhood and community.

The second study, conducted in late 2019 and early 2020, looked at the perceived impact of Airbnb on the Shires approved accommodation providers such as hotels and motels. Preliminary results show that most respondents pointed to the negative effects of Airbnb on their businesses along with the perception of an 'unfair playing field' that favoured the STRA market. Almost unanimously, respondents felt that greater regulation of Airbnb was required.

Q2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A Planning Proposal to amend LEP 2014 is considered to be the best available mechanism to achieve the desired outcomes outlined in Section 2.

The alternative is to allow STRA to be regulated through the proposed *State Environmental Planning Policy (Short Term Rental Accommodation) 2019*. As discussed earlier, the draft SEPP allows STRA to occur 365 days per year, with the exception of certain nominated LGA's (Byron Shire was not nominated) which will be limited to 180 days per year. This is not considered to be the most suitable approach given the unique situation facing Byron Shire.

4.2. Section B – Relationship to strategic planning framework

Q3 Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy?

The North Coast Regional Plan is the NSW Government's strategic document that outlines a vision for the NSW North Coast over the next 20 years. It identifies key challenges and opportunities for the region, with an emphasis on managing urban expansion and protecting coastal assets and the natural environment. The overall vision of the strategy is to maintain the distinctive character of the North Coast, by directing growth away from significant farmland and sensitive ecosystems and enabling efficient planning for infrastructure and services.

In response to these challenges and opportunities, the plan sets out four goals:

- The most stunning environment in NSW;
- A thriving interconnected economy;
- Vibrant and engaged communities;
- Great housing choice and lifestyle options.

To achieve these goals, the plan proposes 25 directions and associated actions, providing a regional framework for local environmental plans, local strategic land use plans and future development proposals. Actions of particular relevance to this Planning Proposal include:

- 8.2 *Facilitate tourism and visitor accommodation and supporting land uses in coastal and rural hinterland locations through local growth management strategies and local environmental plans.*
- 8.5 *Preserve the region's existing tourist and visitor accommodation by directing permanent residential accommodation away from tourism developments, except where it is ancillary to existing tourism developments or part of an area otherwise identified for urban expansion in an endorsed local growth management strategy.*

The Planning Proposal will facilitate short-term rental accommodation through an amendment to LEP 2014, helping to contribute to a mix of accommodation options for visitors to the Byron Shire in both coastal and hinterland areas.

The Planning Proposal will not direct new residential accommodation towards existing tourist accommodation, or propose any rezoning of land that would result in new housing developments near existing tourism developments.

Q4 Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

In 2012 Council adopted a 10 year + *Community Strategic Plan 2022*. The plan is based on five key themes being Corporate Management, Economy, Environment, Community Infrastructure, Society and Culture. The Planning Proposal is generally consistent with the following relevant goals:

CM4.1 Promote community compliance with Acts, Regulations, Instruments and Council policies and standards.	Short term letting of dwellings has been widespread throughout Byron Shire urban and rural areas. It has not been subject to the development assessment process and has resulted in compliance issues. Permitting it with consent or as exempt development (if on a small scale with low impacts) will reduce the level of non-compliance and reduce Council resources put into this issue.
EC2.1 Build a tourism industry that delivers local and regional benefits in harmony with the community's values.	In the right setting and with good management short term letting will provide rental income for a property owner with minimal impacts on the neighbourhood and infrastructure.
EC2.2 Develop Byron Shire as a leader in responsible and sustainable tourism and encourage sustainable business practices within the tourism industry.	Short term rental accommodation has grown rapidly in recent years, resulting in high concentrations of activity in some areas. New planning rules are required to achieve a more sustainable balance that allows for a diversity of tourism opportunities while also managing the impacts of this use on local neighbourhoods and preventing loss of residential housing stock.
EC2.3 Support and promote a	Short term holiday letting management is being

collaborative shire-wide approach to managing tourism.	viewed on a shire wide basis and not just confined to Byron Bay.
--	--

The Planning Proposal is also consistent with other key strategic planning documents in the Byron Shire including the Byron Bay Town Centre Masterplan and the Byron Shire Rural Land Use Strategy.

Q5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The Planning Proposal is considered to be consistent with applicable State Environmental Planning Policies (SEPP's). SEPP's with particular relevance to this proposal are as follows:

State Environmental Planning Policy	Compliance of Planning Proposal
SEPP (Coastal Management) 2018	<p>Permitting short term rental accommodation in zones where dwellings are already permitted could result in development applications in the coastal zone of Byron Shire. The aim of the SEPP and the matters for consideration in the SEPP are matters that Council will consider on a site specific basis in future development applications. In most cases the change of use (if approved) will not result in impacts on the coast beyond that already generated by the existing dwelling.</p> <p>The Planning Proposal is considered to be compliant with the aims of the SEPP.</p>
State Environmental Planning Policy (Affordable Rental Housing) 2009	<p>The Planning Proposal envisages a control that prohibits the use of developments approved under the ARH SEPP for non-hosted STRA. In the Byron Shire, this will apply to secondary dwellings and infill affordable housing developments in the majority of cases.</p> <p>Any new provision that facilitates the conversion of affordable housing to STRA is considered to be contrary to the aims of the ARH SEPP and the objects of the EP&A Act.</p>
SEPP 55 – Remediation of land	<p>In this case no land is actually being rezoned and short term rental accommodation will only be permissible where a dwelling is already permitted on the land. This will not significantly increase the range of sensitive land uses on the site and past land use will still be addressed in any development application (if required). It is consistent with the SEPP.</p>

Q6 Is the Planning Proposal consistent with applicable Ministerial Directions (s117 Directions)?

Consistency with the s117 Directions is assessed in the following table:

Consistency with section 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
1 Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	This Planning Proposal will not affect the boundaries or extent of business zones. Shop top housing will be permitted to be used for non-hosted short term rental accommodation. This will not reduce the available area for employment land uses or alter locations for business or industry.	Consistent
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this Direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	This Planning Proposal will apply to rural zoned land where a dwelling is permitted. It will not alter the zone of any rural land or the density of land use within any rural zone.	Consistent
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	Nothing in this Planning Proposal will prohibit or restrict exploration or mining.	Consistent

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1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> (a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate", or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses. 	<p>Priority Oyster Aquaculture Areas (POAA) exist in the Brunswick River. There is minimal likelihood the Planning Proposal will have adverse impacts on POAA as the proposed use of the land will be either minor (and therefore exempt development) or subject to an environmental assessment on a case by case basis through the development application process. Most land in the vicinity of the POAA is already zoned W1 Natural Waterways or E1 National Parks and Nature Reserves. Short-term rental accommodation would not be permissible in these zones.</p>	Consistent
1.5 Rural Lands	<p>Applies when a relevant planning authority prepares a planning proposal that:</p> <ul style="list-style-type: none"> (a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or (b) changes the existing minimum lot size on land within a rural or environment protection zone. <p>A planning proposal to which clauses 3(a) or 3(b) apply must:</p> <ul style="list-style-type: none"> 4.2.1. be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement 4.2.2. consider the significance of agriculture and primary production to the State and rural communities 4.2.3. identify and protect environmental values, 	<p>This Planning Proposal will affect land zoned RU1 or RU2 where a dwelling is permitted. It will not alter the minimum lot size on any land.</p> <ul style="list-style-type: none"> (a) The proposal is consistent with the goals and directions of the NCRS 2036. (b) The use of dwellings for short term rental accommodation is in response to the changing nature of agriculture in Byron Shire including the need for additional income to keep farm operations viable. (c) A change of use to STRA will not have a significant impact on environmental values because it will be exempt development and low impact by its nature, or will be subject to a development application process. In the latter case, the relevant biodiversity and environmental assessment requirements will apply during the assessment of a DA. (d) The draft controls have taken account for the natural and physical constraints of land being used for STRA. This includes a limitation on 	Consistent

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	<p>including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</p> <p>4.2.4. consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</p> <p>4.2.5. promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</p> <p>4.2.6. support farmers in exercising their right to farm</p> <p>4.2.7. prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses</p> <p>4.2.8. consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land</p> <p>4.2.9. consider the social, economic and environmental interests of the community.</p>	<p>occupancy, requirements for appropriate wastewater, and prohibitions on non-hosted STRA as exempt development where located on bushfire prone or flood prone land.</p> <p>(e) Facilitating STRA in rural land will provide farm owners with additional opportunities to diversify income streams by offering short term rental accommodation to tourist and visitors.</p> <p>(f) The Planning Proposal will not have any significant impact on farmer's rights.</p> <p>(g) The Planning Proposal is unlikely to result in significant fragmentation or rural land or result in land use conflict.</p> <p>(h) SEPP (Primary Production) 2019 did not identify any State significant agricultural land at the time of writing.</p> <p>(i) Social economic and environmental interests are unlikely to be compromised by the Planning Proposal. STRA allowed as exempt development will be a low impact use occurring within an existing dwelling. Where new dwellings are constructed for the purposes of STRA (or as a dual use), the issues of land use conflict and environmental impacts will be addressed through the development assessment process.</p>	
2 Environment and Heritage			
2.1 Environment Protection Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>Planning proposal that applies to land within an environment protection zone or land otherwise identified for</p>	<p>The Planning Proposal will not compromise the protection or conservation of environmentally sensitive areas. No environmental standards will be reduced by the proposed LEP changes.</p>	Consistent

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	environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands"		
2.2 Coastal Protection	<p>This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas; (b) the NSW Coastal Management Manual and associated Toolkit; (c) NSW Coastal Design Guidelines 2003; and (d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land. <p>A planning proposal must not rezone land which would enable increased development or more intensive land-use</p>	<p>Certain land affected by this proposal is located within the coastal zone, which affects the eastern half of Byron Shire. The Planning Proposal is consistent with the objects of the Coastal Management Act as there is minimal likelihood of physical impact on the environment and where a development is not minor it will require an assessment through a development application process.</p> <p>At the time of writing there were no coastal vulnerability areas identified by the SEPP. Specific erosion precincts on the coastal fringe are identified within Byron LEP 1988; this Planning Proposal will not apply to those lands.</p> <p>The Planning Proposal will not increase or involve the rezoning of land that would result in an increased intensity of use within the coastal wetlands and littoral rainforests area map.</p>	N/A

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	<p>on land:</p> <ul style="list-style-type: none"> (a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or (b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken: 		
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. 	<p>Byron LEP 2014 currently contains provisions that are consistent with this Direction. The new provisions will not have a significant effect on Indigenous or non-indigenous heritage. Where additional building works, landscaping, or clearing is proposed as part of the use of a dwelling for STRA, such works will be subject to an environmental impact assessment through a DA process.</p>	Consistent
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p> <ul style="list-style-type: none"> (a) where the land is within an environment protection zone, (b) where the land comprises a beach or a dune adjacent to 	<p>This Planning Proposal does not enable any land to be developed as a recreation vehicle area.</p>	N/A

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	<p>or adjoining a beach,</p> <p>(c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</p> <p>(i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and</p> <p>(ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>.</p>		
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>This Direction applies when a relevant planning authority prepares a planning proposal:</p> <p>(a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone;</p> <p>(b) that introduces or alters an overlay and associated clause.</p> <p>A planning proposal must apply the proposed E2 Environmental Conservation or E3 Environmental Management zones, or the overlay and associated clause, consistent with the Northern Councils E Zone Review Final Recommendations.</p>	This Planning Proposal does not introduce or alter any E2 or E3 zoning or overlays.	N/A
3 Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<p>This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p>	All of the relevant requirements for residential development in terms of location, permissible housing types, infrastructure, servicing and design are already provided within LEP 2014.	Consistent

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	<p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p>A planning proposal must, in relation to land to which this Direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. 		
3.2 Caravan Parks and Manufactured Home Estates	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> that would facilitate the retention of the existing caravan park. 	The Planning Proposal does not identify any suitable zones or provisions for caravan parks.	N/A

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	<p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent. 		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	Home occupations are currently permitted without consent under Byron LEP 2014. The Planning Proposal will not change this existing provision.	N/A
3.4 Integrating Land Use and Transport	<p>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	The Planning Proposal will alter the permitted uses on land zoned for residential (and other purposes) where dwellings are permitted. However, it will not alter zone boundary or create a new zoned area. The Planning Proposal is not inconsistent with the relevant guidelines and will not have a significant impact on public transport.	Consistent

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3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. The main requirements of the Direction are that Council considers the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.	The Planning Proposal will not create, alter or remove a zone relating to land in the vicinity of a licensed aerodrome.	N/A
3.6 Shooting Ranges	Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range. A planning proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.	The Planning Proposal will not create, alter or remove a zone relating to land in the vicinity of a shooting range.	N/A
3.7 Reduction in Short term rental accommodation period	This direction applies to Byron Shire Council when the Council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.	This direction is addressed in Appendix A .	Justifiably Inconsistent
4 Hazard and Risk			
4.1 Acid Sulfate Soils	This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	The Planning Proposal is consistent with the principles of the Acid Sulfate Soils Guideline.	N/A
4.2 Mine Subsidence	Applies when a relevant planning authority prepares a planning proposal that permits development on land that:	Not applicable.	N/A

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and Unstable Land	<p>(a) is within a mine subsidence district, or</p> <p>(b) has been identified as unstable in a study, strategy or other assessment undertaken:</p> <p>(i) by or on behalf of the relevant planning authority, or</p> <p>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</p>		
4.3 Flood Prone Land	<p>Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <p>(a) permit development in floodway areas,</p> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the development of that land,</p> <p>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</p> <p>(e) permit development to be carried out without development consent except for the purposes of</p>	<p>Non-hosted STRA will be not be permitted on flood prone land as exempt development. Where a DA is required, flooding will be addressed through the existing provisions in Byron LEP 2014 and Byron DCP 2014.</p>	Consistent

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	<p>agriculture (not including dams, drainage canals, levees, buildings or structures in flood ways or high hazard areas), roads or exempt development.</p> <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>		
4.4 Planning for Bushfire Protection	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination under Division 3.4 of the Act, and prior to undertaking community consultation in satisfaction of Division 3.4 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <p>(a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate</p>	<p>Non-hosted STRA will not be permitted on bushfire prone land as exempt development. Where a development application for STRA is proposed, it will be subject to bushfire assessment as part of the DA process.</p> <p>Non-hosted STRA may potentially be characterised as a type of special fire protection purpose as defined under section 100B of the <i>Rural Fires Act 1997</i>. Consultation with the RFS will be required following a gateway determination to clarify how STRA will be addressed under the current legislative framework for bushfire assessment.</p>	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</p> <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <p>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</p> <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, <p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		

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5 Regional Planning			
5.1 Implementation of Regional Strategies	This direction applies to land to which the following regional strategies apply: (a) South Coast Regional Strategy (excluding land in the Shoalhaven LGA) (b) Sydney–Canberra Corridor Regional Strategy	Not applicable.	N/A
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	Not applicable.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	This applies to Byron Shire Council except within areas contained within the “urban growth area” mapped in the North Coast Regional Plan 2036. A planning proposal must not: (a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes. (b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes. (c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.	The Planning Proposal does not involve rezoning land. Direction 5.3 is therefore not applicable.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	A planning proposal that applies to land located on “within town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway; (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, “within town” means areas which, prior to the draft local environmental plan,	The Planning Proposal does not propose and zoning changes or new provisions that would facilitate commercial or retail development near the pacific highway	Consistent

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	<p>have an urban zone (eg "village", "residential", "tourist", "commercial", "industrial", etc) and where the Pacific Highway speed limit is less than 80 km/hour.</p> <p>A planning proposal that applies to land located on "out-of-town" segments of the Pacific Highway must provide that:</p> <ul style="list-style-type: none"> (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction; (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (eg "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80 km/hour or greater. 		
5.10 Implementation of Regional Plans	All planning proposals must be consistent with the applicable Regional Plan released by the Minister for Planning.	The Planning Proposal is generally consistent with the planning framework set out under the North Coast Regional Plan.	Consistent
5.11 Development of Aboriginal Council Land	<p>This applies when preparing a planning proposal to which this direction applies, the planning proposal authority must take into account:</p> <ul style="list-style-type: none"> (a) any applicable development delivery plan made under State Environmental Planning Policy (Aboriginal Land) 2019; or (b) if no applicable development delivery plan has been published, the interim development delivery plan published on the Department's website on the making 	This planning proposal does not affect any land shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.	N/A

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	of this direction.		
6. Local Plan Making			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of Division 3.4 of the Act, and (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of Division 3.4 of the Act. 	<p>This Planning Proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. It does not identify development as designated development.</p>	Consistent

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S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	N/A
6.3 Site Specific Provisions	<p>Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p> 	This Planning Proposal does not seek to facilitate the development of a particular site. Instead it will facilitate a new class of development that will be permissible in certain zones across the whole Shire.	N/A

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4.3. Section C Environmental, social and economic impact

Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal

No. It is unlikely that any critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of this Planning Proposal.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

STRA can potentially result in amenity issues such as noise disturbances and parking congestion. In areas without reticulated sewerage, there is potential for pollution and health risks if the number of persons occupying the dwelling during a period of STRA exceeds the capacity of the wastewater system.

To address these potential impacts, STRA permitted via exempt development will be required to adhere to minimum standards for dwelling type, occupancy, fire safety, parking and wastewater.

In the case of a development application for STRA, impacts on the natural and built environments can be suitably addressed through existing provisions in the planning system. Limitations on occupancy levels and a new clause providing mandatory matters for consideration will guide the assessment process.

Q9 Has the planning proposal adequately addressed any social and economic effects?

The planning proposal seeks to provide a balance between the economic benefits of tourism and the need to minimise impacts on neighbourhood amenity and prevent the loss of long term housing.

4.4. Section D State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal

The additional use is based on existing dwellings which typically would be adequately served by water and sewerage or on-site sewage management. Power and telephone will usually be linked to the existing dwelling (if not also self-sufficient, e.g. solar or mobile phone). Existing road and transport infrastructure will be utilised by the proposed use.

Q11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Gateway determination will advise the public authorities to be consulted as part of this Planning Proposal. It is requested that public authority consultation be undertaken concurrently with community consultation.

Part 5 Mapping overview

This Planning Proposal will necessitate a new mapping overlay to Byron LEP 2014 to identify land where STRA is not permitted. Indicative maps are identified in **Appendix 3**.

Part 6 Community Consultation

A pre-gateway community engagement activity was undertaken over December 2019 and January 2020. Feedback was sought on a set of draft planning controls that eventually formed the basis of this Planning Proposal.

The proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*. This includes any required consultations under section 56(2)(d) of the Act and/or to comply with the requirements of the relevant section 9.1 Directions.

Notification of the exhibited Planning Proposal will include:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the Planning Proposal, and
- the website of Byron Shire Council and the Department of Planning and Environment.

Part 7 Project timeline

The proposed timeline for the completion of the Planning Proposal is as follows:

Estimated completion	Plan making step
March 2019	Gateway determination issued by Department of Planning and Environment.
April 2019 – May 2019	Public exhibition of Planning Proposal. Government agency consultation.
June 2019 – July 2019	Analysis of public submissions. Preparation of Council report.
July – 2019	Public submissions report to Council.
August/September 2019	Endorsed Planning Proposal submitted to Department of Planning and Environment for finalisation or dealt with by Council under delegation.

Summary and conclusions

This planning proposal seeks to amend Byron Local Environmental Plan 2014 to define short term rental accommodation (STRA), and to introduce planning controls that will improve the management of STRA in the Byron Shire.

Non-hosted STRA will be limited to a maximum of 90 days per calendar year. Hosted STRA will not be subject to time limitations.

Given the high concentration and unique impacts of STRA in the Byron Shire, the proposed day limitation is considered necessary to achieve the aims and objectives of the planning proposal.

The Planning Proposal has been informed by research into the extent of online STRA listings, two studies by researchers from Southern Cross University and a pre-gateway community engagement activity.

Appendix 1 Analysis of Airbnb and HomeAway Listings in the Byron Shire

1. Introduction and methodology

1.1 Introduction

This analysis looks at the pattern of Airbnb and HomeAway listings in the Byron Shire over a 3.5 year period from July 2016 to November 2017. The purpose of the research is to investigate the distribution and concentration of listings and to gain insight into the type of accommodation being offered and the frequency of use.

1.2 Data sources

Two data sets have been used: one from consulting firm AirDNA, the second is a publicly available data set published by Insideairbnb.

Most of the analysis is based on data from AirDNA as it includes listings from both Airbnb and HomeAway and covers a greater period of time. Regional comparisons of Byron Shire with surrounding Northern Rivers and Sydney LGA's are drawn from Insideairbnb.

1.3 Why focus on Airbnb and HomeAway?

Given the number of different booking platforms and agents offering accommodation in the Byron Shire, it is not feasible to obtain data from all sites or agents. By focusing on the two most popular online platforms, it is hoped to obtain an impression of the STRA sector that is hopefully reflective of industry as a whole. The actual number of STRA properties is likely to be higher than the figures provided in this analysis as many listings may be managed through real estate agencies or advertised on other online platforms.

1.4 Limitations in the data

Airbnb and HomeAway do not make their data publicly available. This forces researchers to obtain information from third parties who 'scrape' data from the public facing section of these websites. The scraping method of data acquisition comes with inherent limitations which need to be acknowledged.

Airbnb and HomeAway randomise the geographical coordinates for each listing by up to 450 feet (approximately 130m), making it difficult to identify the property address for each listing (Wachsmuth et. al., 2017). While attempts have been made to organise listings by suburb, the nature of the data means there is a possibility for minor errors to accumulate when listings are grouped together. AirDNA also reports on both the availability and occupancy of each listing. It is understood that these figures are estimates calculated by an algorithm developed by AirDNA.

Despite these limitations, the AirDNA data is accepted as being a good estimation of short term rental activity and has been used in recent studies into short term rental accommodation by Australian and international researchers (Crommelin et. al. 2018).

1.5 Methodology

The AirDNA data set identifies the number of days per month that a listing is either 'available', 'reserved' or 'blocked'. A blocked listing means that the host 'blocked' it from being used for a specified number of days (or entirely) during the reporting period. This could be because the owner was staying in the dwelling at the time, or they simply didn't want it to be used for a specified period. An available listing means that the dwelling was 'available' for rent, while a reserved listing means that it had been 'reserved', or booked, by a prospective guest.

This analysis adopts a simplified methodology of counting listings that were either 'available' or 'reserved' for at least one day in the monthly reporting period. This is necessary to avoid inflated counts that include blocked listings.

Even though 'available' days do not involve any accommodation (otherwise they would be noted as 'reserved'), they imply that a dwelling is not available for long term residential accommodation at that time, and hence is not part of the Shires dwelling supply for the listing period. This is essential to gain an understanding of the effect that STRA is having on the supply of housing and how many dwellings are being used for STRA casually versus commercially.

The dataset records four different accommodation types (1) entire home/apt, (2) private room, (3) shared room, (4) hotel room. Hotel rooms have been excluded from the count as we are only interested in the effect on the housing market. Private rooms and shared rooms have been combined into a single count due to the similarity between these use cases. It should be noted that shared rooms and hotel rooms comprise a negligible proportion of the total listings and do not have a significant effect on the analysis.

1.6 Dual listings

Many STRA properties are listed across multiple advertising platforms at the same time. The AirDNA dataset identifies properties that are listed on both Airbnb and HomeAway, which removes the risk of duplicate counts.

1.7 Frequently available listings

This analysis defines a 'frequently available dwelling' as an entire house or apartment that was available or reserved for more than 90 days in the previous 12 months.

Recent international and Australian studies into the impact of Airbnb on long term housing markets have adopted similar methodologies. Wachsmuth et. al. (2017) adopted a 60 day threshold in their analysis of short-term rentals in major Canadian cities, while Crommelin et.al. (2018) adopted a 90 day threshold in their recent study of the impacts of Airbnb on housing markets in Sydney and Melbourne.

As noted by Crommelin et. al. (2018), 'a 90 day threshold is generally consistent with other international regulatory approaches and is considered to be the maximum period of time that long-term occupants could vacate their dwelling without having to alternative long term accommodation themselves'.

For the sake of comparison, this analysis also looks at dwellings that were 'available' or 'reserved' for more than 180 days in the previous 12 months. This is consistent with the 180 day limit for certain LGA's adopted in the draft *State Environmental Planning Policy (Short Term Rental Accommodation) 2019*

1.8 Breakdown of listings by suburb

To simplify the analysis, dwelling numbers were obtained from the Byron Shire Community Profile, published by profile.id, which is based on data from the 2016 Australian Census.

The data includes a breakdown of dwelling numbers across eight different suburbs in the Byron Shire. Airbnb and HomeAway listings have been aggregated into the same suburb areas as the dwelling counts to enable a comparison of listings and dwellings in different parts of the Shire.

1.9 Estimation of dwelling numbers

Dwelling numbers in this analysis have been estimated by taking the dwelling count from the profile.id statistics (enumerated by suburb) and adding to it all occupation certificates for residential dwellings issued since the close of the census.

Occupation certificate data was harvested from Council's internal records and was manually counted and added on a month by month basis. Some errors may exist due to a lack of accounting for dwelling demolitions, however, the figures provided are generally considered to be a good estimate of total dwelling numbers and any errors are likely to be minor in nature. The data allows for a timeline comparison of the growth of Airbnb and HomeAway listings relative to the growth of dwellings.

2. Number of listings

2.1 Total listings

The total number of listings on Airbnb or HomeAway for the Byron Shire was estimated to be 4237 at 1 November 2019. Of this figure, 3613 (85%) listings were for entire homes of apartments, and 624 (15%) listings were for private or shared rooms within a dwelling. The breakdown of dwelling type for total listings is shown in table 1.

Table 1: Airbnb and HomeAway listings in the Byron Shire, November 2019

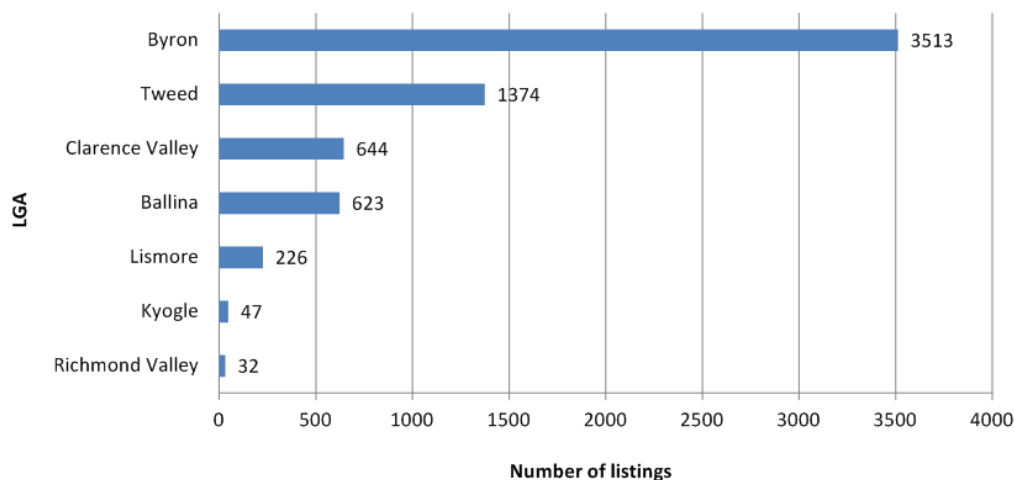
Accommodation type	No. of listings	%
Entire home/apt	3613	85%
Private or shared room	624	15%
Total (excluding hotel)	4237	100%

Source: Byron Shire Council, based on data from Airdna (2019)

2.2 Regional comparison

For a regional comparison, we use data from insideairbnb.com (Cox, 2019), which shows that the total number of Airbnb listings for the Byron Shire was estimated to be 3,513 at 30 November 2019. This compares to Tweed with 1374, Clarence Valley with 644 and Ballina with 623. Regionally, there are more Airbnb listings in Byron Shire than in all other northern Rivers LGA's combined. A comparison of regional Airbnb listings is illustrated in figure 1.

Figure 1: Comparison of Airbnb listings for Northern Rivers LGA's

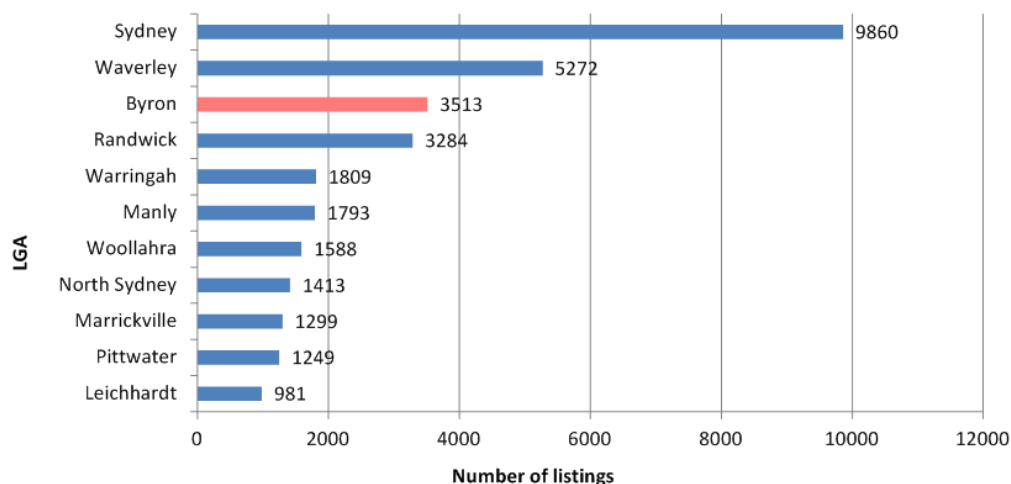


Source: Byron Shire Council, based on data from Inside Airbnb, 30 November 2019

2.3 Greater Sydney Region comparison

Only two LGA's in the Greater Sydney Region were shown to have more Airbnb listings than Byron Shire, those being Sydney (9860) and Waverley (5272), highlighting the prevalence of the Airbnb phenomenon in Byron Shire. This is a significant finding when considering the relatively low population and dwelling numbers in the Byron Shire compared to these metropolitan LGA's. A comparison of Airbnb listings for Byron Shire and the top 10 LGA's for the Greater Sydney Region is illustrated in figure 2.

Figure 2: Comparison of Airbnb listings between Byron Shire and the top 10 LGA's in the Greater Sydney Region



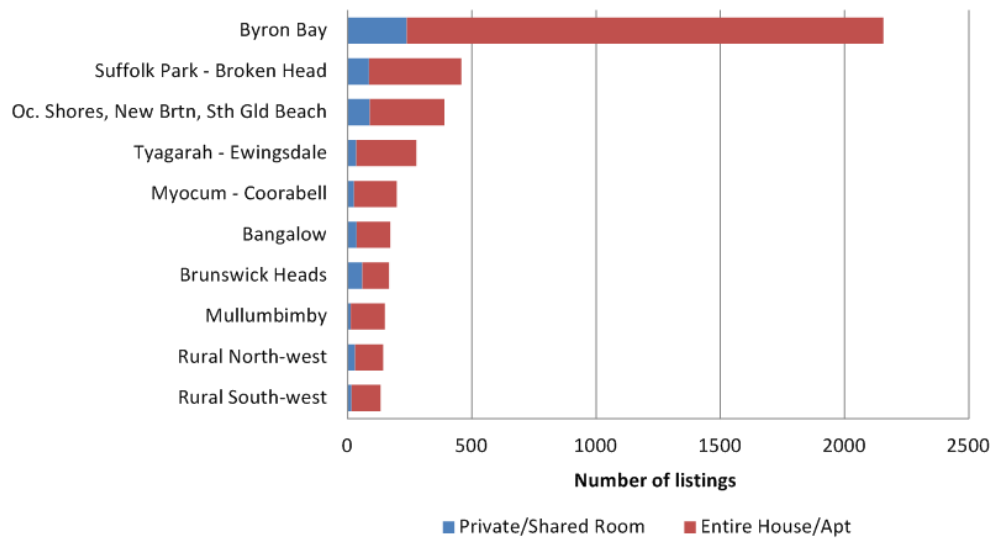
Source: Byron Shire Council, based on data from Inside Airbnb, 30 November 2019

2.4 Spatial distribution of listings

The majority of Airbnb and HomeAway listings are concentrated in Byron Bay, with Suffolk Park being the next most popular location. At 1 November 2019, Byron Bay had a total of 2157 listings, followed by Suffolk Park/Broken Head with 457.

This finding reflects previous research on Airbnb that indicates listings tend to be concentrated in areas with significant tourism appeal (Crommelin, 2018). Listings in other areas of the Shire were still considerably higher than the regional and State-wide averages, although the majority of activity appears to be occurring in coastal areas, particularly Byron Bay. A breakdown of total listings for eight different areas in the Shire is illustrated in Figure 3 and Table 1.

Figure 3: Distribution of Airbnb and HomeAway listings in Byron Shire by suburb



Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

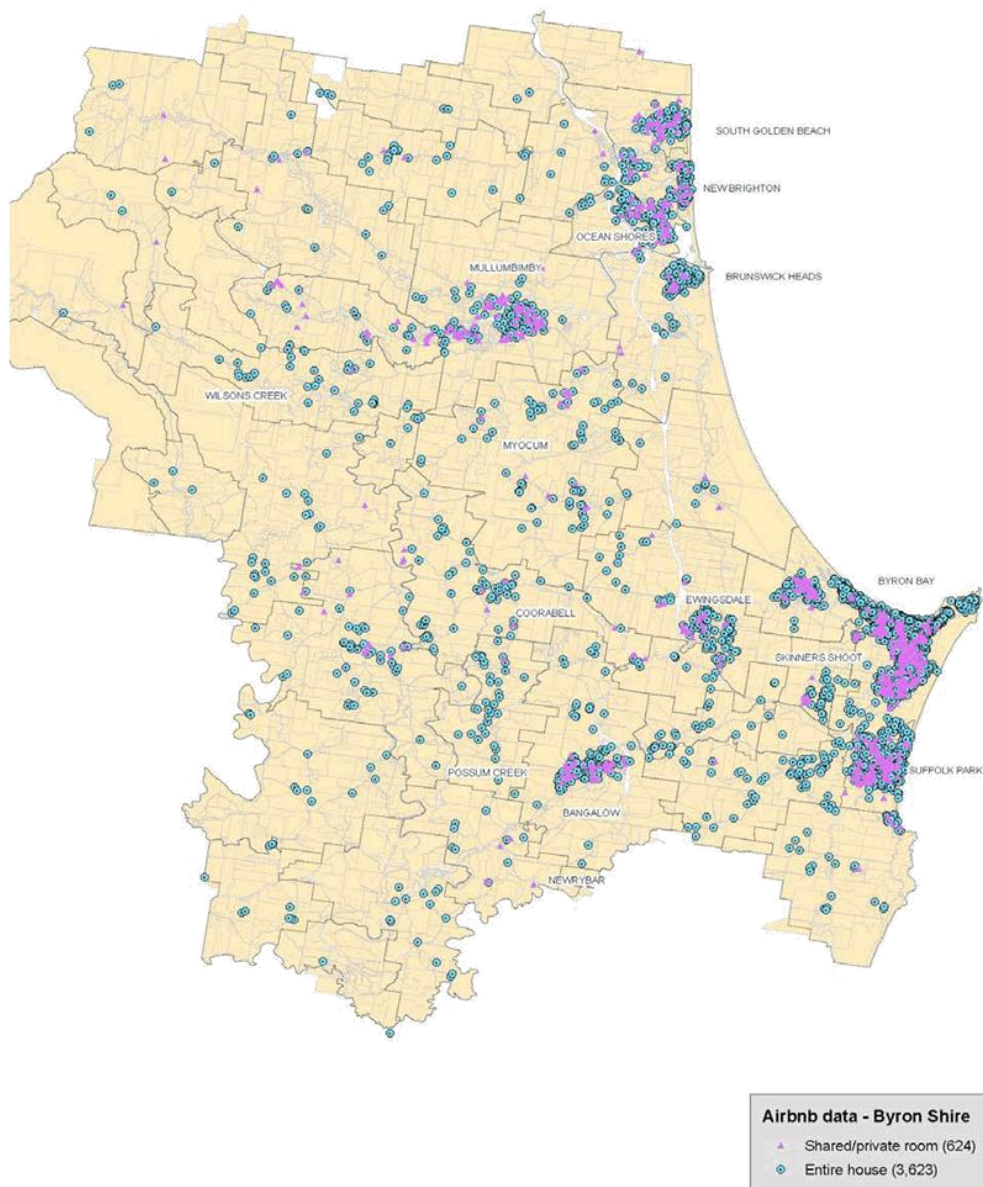
Table 1: Distribution of Airbnb and HomeAway listings in Byron Shire by suburb

Suburb	Private/Shared Room	Entire House/Apt	Total listings
Byron Bay	238	1919	2157
Suffolk Park - Broken Head	85	372	457
Oc. Shores, New Brtn, Sth Gld Beach	89	300	389
Tyagarah - Ewingsdale	35	241	276
Myocum - Coorabell	25	172	197
Bangalow	36	135	171
Mullumbimby	59	107	166
Brunswick Heads	12	138	150
Rural North-west	30	112	142
Rural South-west	15	117	132
Total	624	3613	4237

Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

A clear spatial pattern of listings is evident in figure 4 which illustrates the concentration of activity in and around Byron Bay. Each listing is represented as an individual point on the map, with listings for entire houses or apartments shown as a blue dot and private or shared rooms shown as a purple triangle.

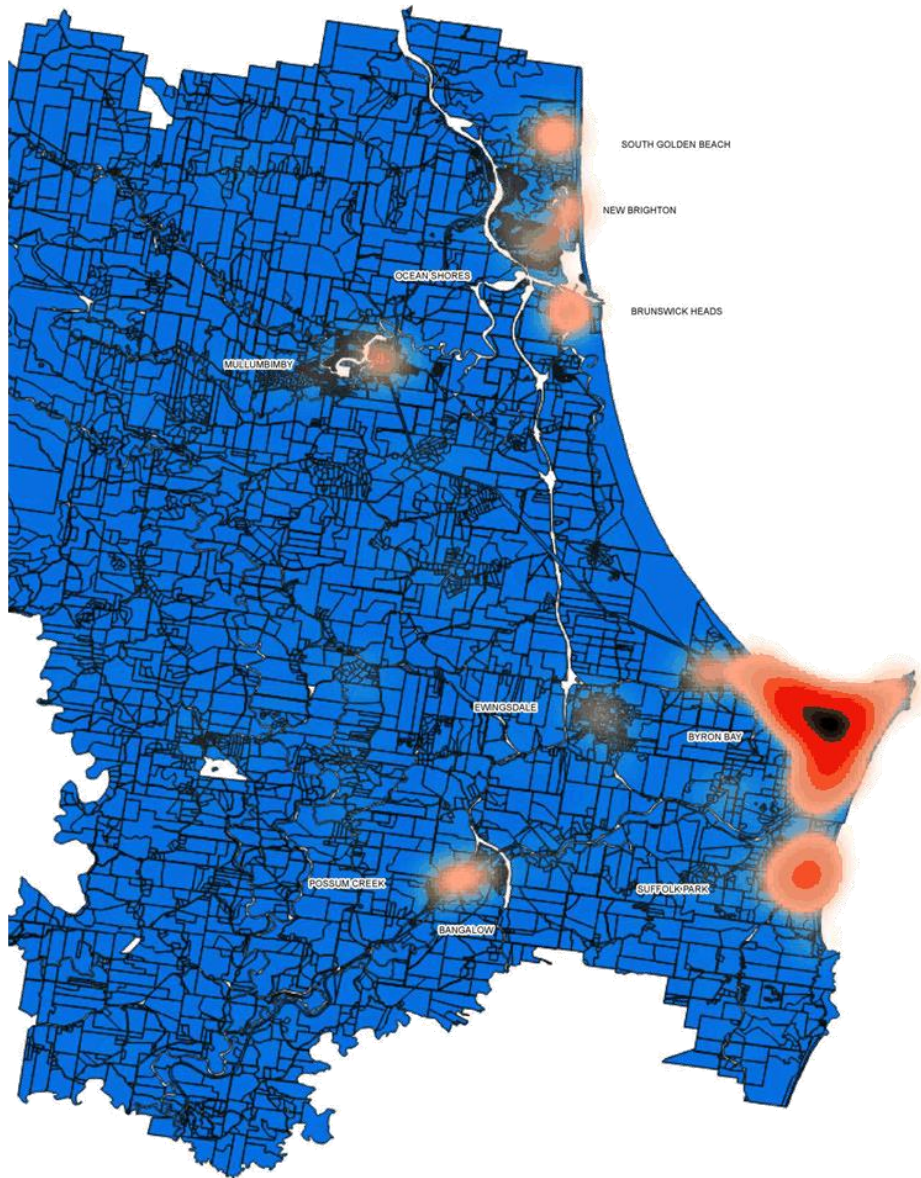
Figure 4: Airbnb and HomeAway listings based on publicly available spatial coordinates



Source: Map: Byron Shire Council (2019). Coordinate Data: Airdna (2019)

Due to the high number of listings, the concentration of activity is difficult to visualise using individual points on a map. Figure 5 uses a heat map to illustrate the density of listings, which gives a better impression of the concentration of activity in different parts of the Shire. As discussed earlier, Byron Bay is a clear hotspot of activity with 2157 listings accounting for 51% of total listings.

Figure 5: Heat map providing a visual guide for the concentration of Airbnb and HomeAway listings in Byron Shire



Source: Map: Byron Shire Council (2019). Coordinate Data: Airdna (2019)

2.5 Frequently available listings

Analysis of the data indicates there are a wide range of participants on both platforms, from hosts occasionally renting a single room through to professional investors renting out multiple properties year-round.

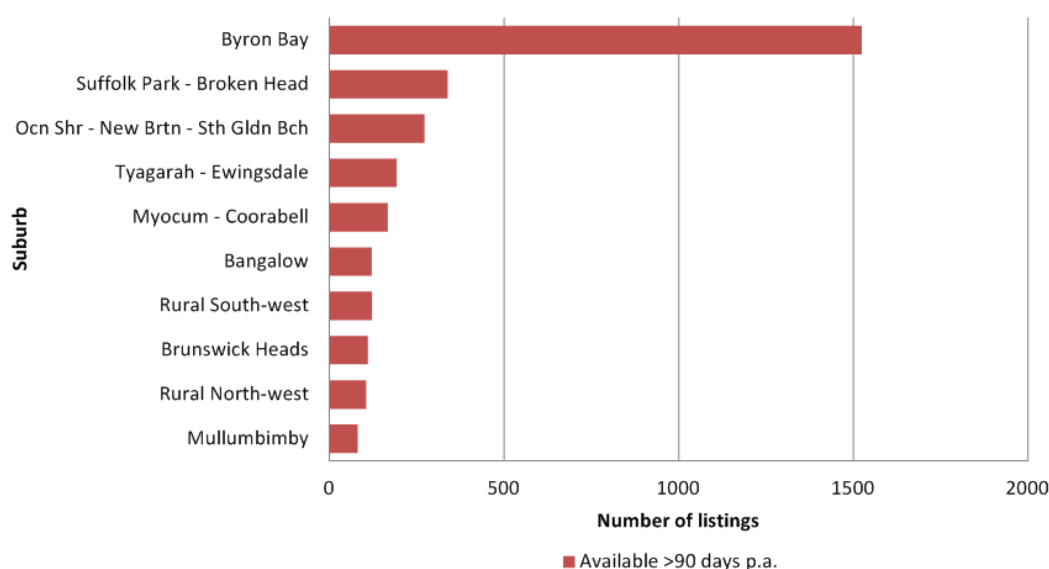
In terms of housing, we are interested in identifying the numbers of dwellings that are frequently used for tourist accommodation purposes, and thus are considered to have been removed from the long term housing market. Dwellings that are only partially or occasionally used for holiday letting while the occupants are away are not considered to have significant net impact on dwelling supply as the primary use of the dwelling has not substantially changed.

To estimate the impact, we have chosen to focus on entire houses or apartments that were listed as 'available' or 'booked' for at least 90 days in the previous 12 months. For the sake of comparison, some additional analysis using a more permissive 180 day threshold (similar to the draft SEPP) has also been carried out.

Out of a total of 3613 listings for entire houses or apartments, 3034 (84%) were 'available' or 'booked' for more than 90 days in the previous 12 months. Raising the threshold to 180 days in the previous 12 months reduced the number to 1794 listings which constitutes approximately 50% of listings. The majority of frequently available listings are concentrated in Byron Bay.

Figures 6 and 7 illustrate frequently available listings as a percentage of total listings. Figures for each suburb are shown in table 2.

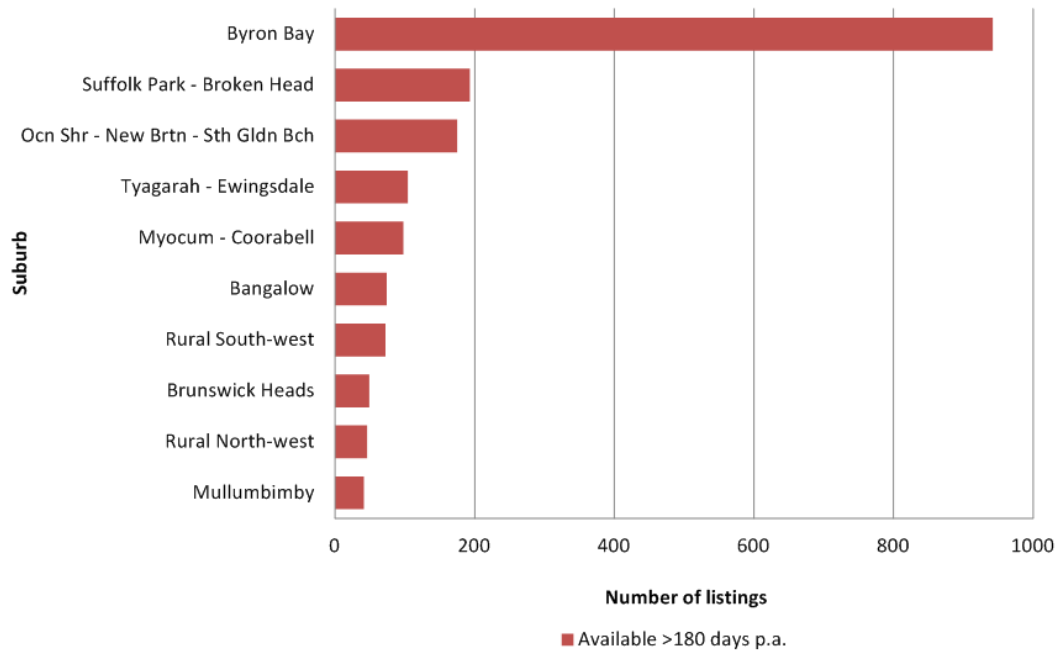
Figure 6: Frequently available listings (>90 days p.a.) by suburb



Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

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Figure 7: Frequently available listings (>180 days p.a.) by census district



Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

Table 2: Breakdown of frequently available listings by suburb

Suburb	Available >180 days p.a.	Available >90 days p.a.
Byron Bay	942 (44%)	1524 (71%)
Suffolk Park - Broken Head	193 (42%)	339 (74%)
Ocean Shores, New Brighton, South Golden Beach	175 (45%)	272 (70%)
Tyagarah - Ewingsdale	104 (38%)	193 (70%)
Myocum - Coorabell	98 (50%)	167 (85%)
Brunswick Heads	49 (33%)	110 (73%)
Bangalow	72 (42%)	122 (71%)
Rural South-west	74 (32%)	121 (92%)
Rural North-west	46 (32%)	105 (74%)
Mullumbimby	41 (21%)	81 (48%)
Total	1794 (42%)	3034 (71%)

Note. Percentages indicate frequently available listings relative to total listings

2.6 Number of reserved days

To gain an insight into the usage of properties, listings were filtered to identify the number of days that a property was listed as 'reserved' (i.e. booked), as this provides an indication of a dwelling being actively used for STRA. Listings were split into the following three groups based on the number of days they were reserved in the previous 12 months:

- 0-90 days;
- 91-180 days;
- 181-365 days.

Table 3 below illustrates that the market is roughly split between frequently and infrequently reserved properties. Slightly more than half of listings (55%) were reserved for less than 90 days per year, while 27% were reserved from 91-181 days per year and 18% of listings were reserved for more than 181 days per year.

This shows that while the number of 'frequently available' properties is relatively high, many of these dwellings have a usage of less than 90 days per year. There could be a number of explanations, such as holiday houses that are listed frequently but not often booked.

If new planning rules were introduced that reduced the period of non-hosted accommodation to 90 days, this would be likely to impact on 45% of listed properties. Slightly less than 20% would be affected if a 180 day threshold were adopted.

Table 3: Breakdown of reserved days

Reserved days (last 12 months)	Entire homes/apt	%
0-90	1958	55%
91-180	946	27%
181-365	645	18%
Total	3549	100%

3. Growth Trends

3.1 Growth in total listing

Between 1 July 2016 and 1 November 2019 the total number of Airbnb and HomeAway listings increased from 1586 to 4237. Listings growth appears to have accelerated rapidly in period from 2016 – 2018. The total volume of listings is still increasing, but take up rates appear to be slowing overall. The majority of growth is being driven by listings for entire houses and apartments rather than for private/shared rooms.

It should be acknowledged that the growth trends are indicative of listings growth on the Airbnb and HomeAway platforms, and may not be reflective of actual STRA growth in the Shire as there is no way of knowing how many listings are 'new entrants' to the market or whether the trend represents a shift in advertising of existing properties. Nevertheless, the total volume of listed properties indicates a significant upward trend that is unlikely to be explained solely by a change in advertising mediums. Total listings growth is depicted in figure 8 below.

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Figure 8: Growth in total Byron Shire Airbnb and HomeAway listings Jul 2016 – Nov 2019



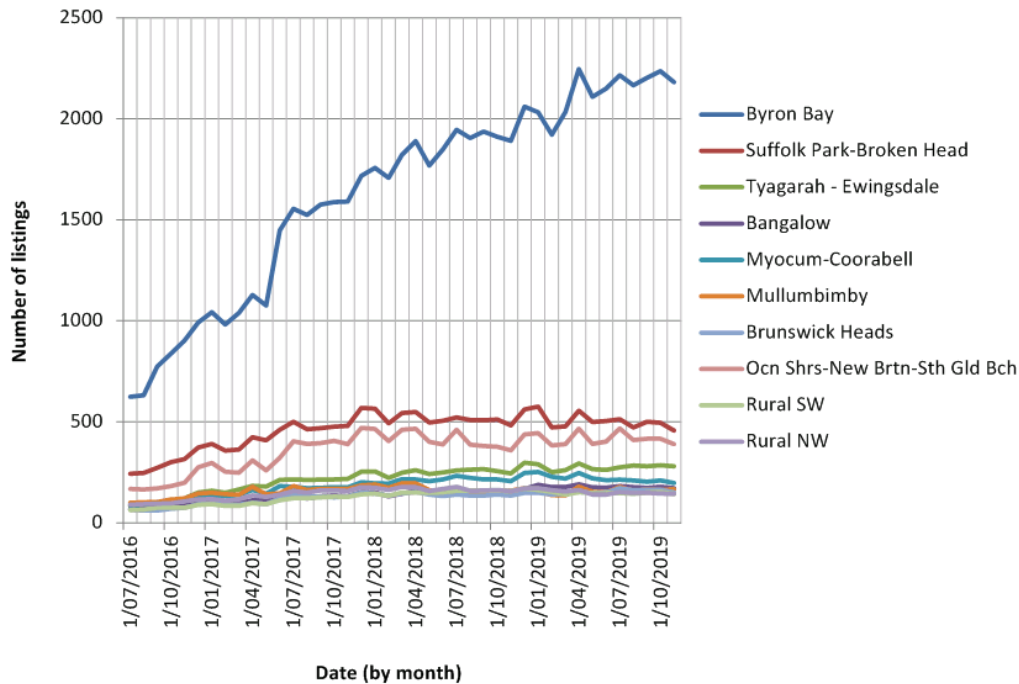
Source: Byron Shire Council, based on data from AirDNA, 1 November 2019.

3.2 Growth most evident in Byron Bay

When growth is filtered by suburb, it becomes clear that the strong growth trend is being driven primarily by listings in Byron Bay. Other areas of the Shire also experienced increased growth, but to a lesser degree. Listings growth by census district is illustrated in figure 9.

Figure 9: Growth of total listings in Byron Shire, by suburb, Jul 2016–Nov 2019

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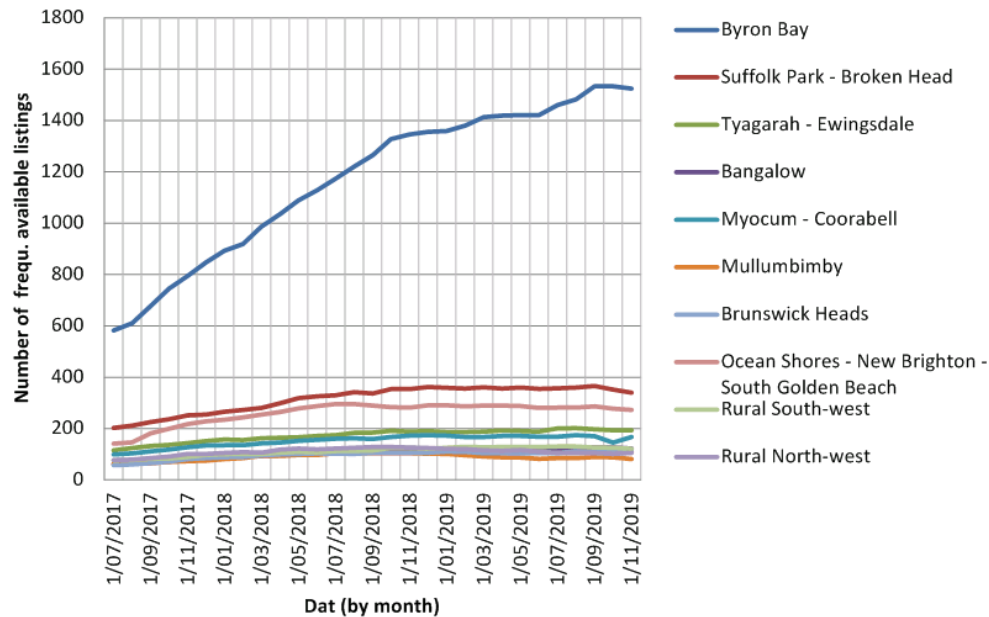
Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

3.3 Growth in frequently available listings

Growth in frequently available properties, being whole houses or apartments that were available or reserved for more than 90 days in the previous 12 months, shows a similar trend to listings growth overall. The number of frequently available properties rose rapidly in the period of 2016 to 2018 with growth slowing in the past 12 months. The nature of this analysis results in a 'smoothing' of the growth trend because it averages the total number of available or reserved days over the previous 12 months. Again, the upward growth trend is primarily driven by growth in Byron Bay listings. Growth in frequently available listings by suburb is depicted in figure 10.

Figure 10: Growth of frequently available listings by suburb Jan 2017 – Oct 2019

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Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

4. Listings relative to dwelling supply

4.1 Significant proportion of dwellings

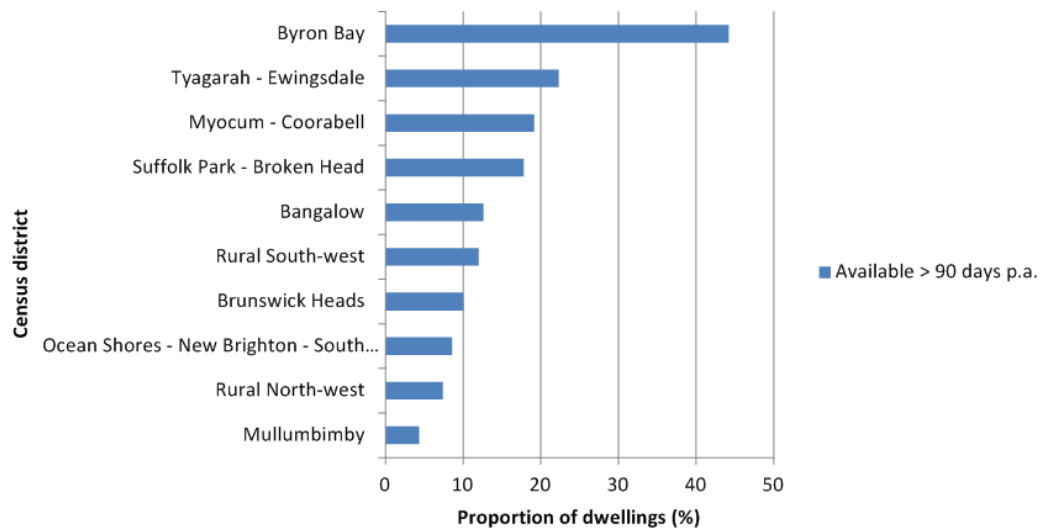
It is estimated there were 16,592 dwellings in the Byron Shire by 1 November 2019. When considered as a proportion of the total dwelling supply, Airbnb and HomeAway listings equate to 25% of total dwellings in the Byron Shire. Consistent with other findings in this analysis, the greatest concentration of activity was evident in Byron Bay, where Airbnb and HomeAway listings equate to approximately 62% of dwellings. This figure is inclusive of shared rooms, private rooms and entire dwellings and covers frequent and infrequent users.

Frequently available properties that were available or reserved for more than 90 days in the previous 12 months are estimated to comprise 18% of total dwellings. This figure reduces to 11% if the availability threshold is raised to a more permissive 180 days per year. To put this in context, this compares to a national rate of 0.2% and a rate of 1.7% for the Greater Sydney Region (Gurran et. al., 2018).

Charts 12-13 and tables 4-5 illustrate total listings and frequently available listings as a proportion of dwelling supply in each suburb.

Figure 12: Frequently available listings as a proportion of dwelling supply, by suburb

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Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

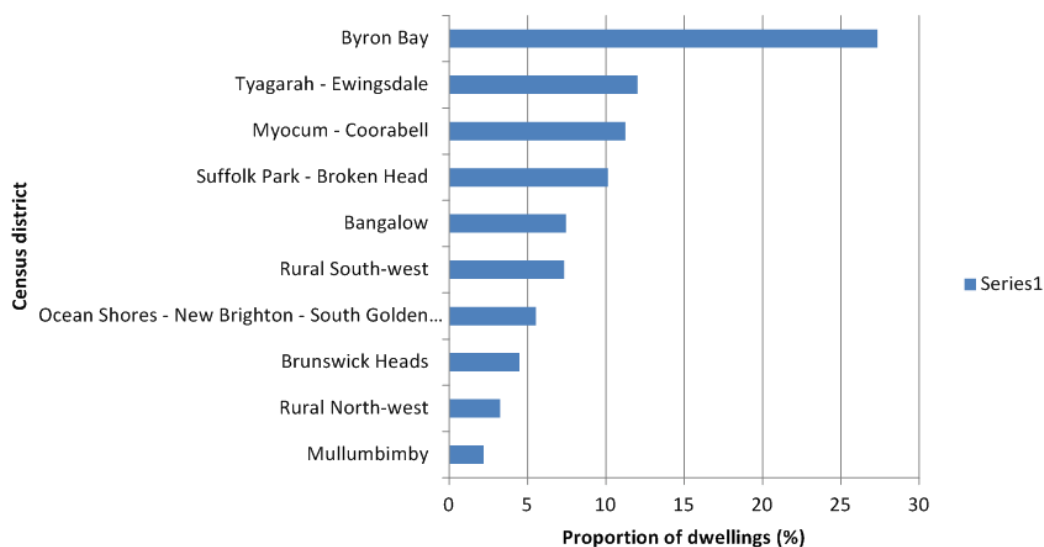
Table 4: Frequently available listings as a proportion of dwelling supply, by suburb

Census district	Available >90 days p.a.	Pct. of dwellings
Byron Bay	1524	44%
Suffolk Park - Broken Head	339	18%
Ocean Shores, New Brighton, South Golden Beach	272	9%
Tyagarah - Ewingsdale	193	22%
Myocum - Coorabell	167	19%
Brunswick Heads	110	10%
Bangalow	122	12%
Rural South-west	121	12%
Rural North-west	105	7%
Mullumbimby	81	4%
Total	3034	18%

Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

Figure 13: Frequently available listings (>180 days p.a.) shown as a proportion of dwellings, by suburb

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Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

Figure 5: Frequently available listings (> 180 days p.a.) as a proportion of dwelling supply, by suburb

Census district	Available >180 days p.a.	Pct. of dwellings
Byron Bay	942	27%
Tyagarah - Ewingsdale	104	12%
Myocum - Coorabell	98	11%
Suffolk Park - Broken Head	193	10%
Rural South-west	74	7%
Bangalow	72	7%
Ocean Shores, New Brighton, South Golden Beach	175	6%
Brunswick Heads	49	4%
Rural North-west	46	3%
Mullumbimby	41	2%
Total	1794	11%

Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

4.2 Growth trends relative to dwelling supply

Between August 2016 and November 2019, 877 occupation certificates for residential dwellings were issued. The number of dwellings is estimated to have grown from 15,715 to 16,592 over that time, representing an increase of 5.5%.

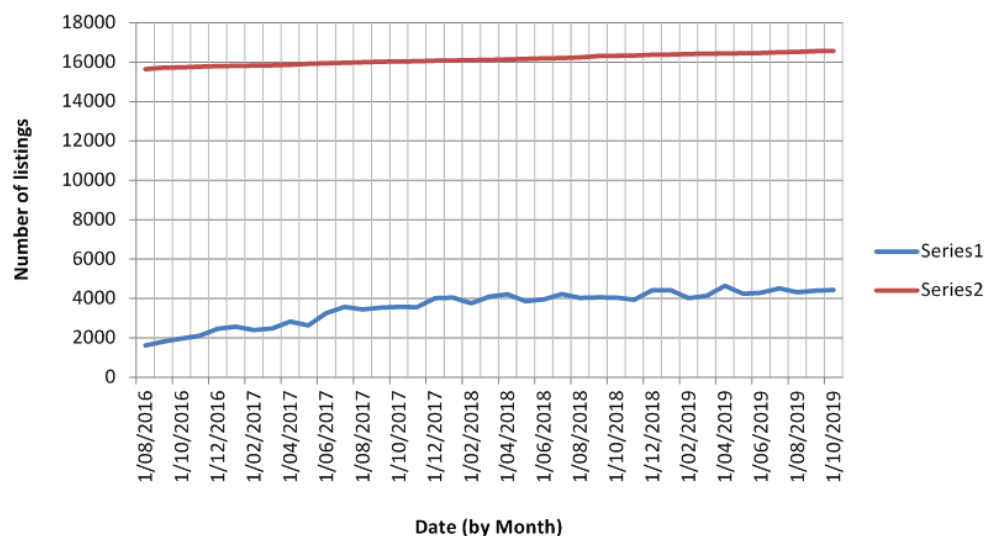
Over the same period, total Byron Shire Airbnb and HomeAway listings rose by 264% from 1603 to 4237. Listings of frequently available dwellings grew by 211% from 1437 at 1 July 2017 to 3034 by 1 November 2019.

Note: A smaller time period was required for this analysis as the figures needed to be inclusive of the average number of days a property was available or reserved in the previous 12 months.

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As indicated in figure 14, listings growth outpaced the supply of new residential accommodation over the reporting period and this trend appears to be ongoing.

Figure 14: Growth in Airbnb and HomeAway listings relative to growth in dwellings in Byron Shire



Source: Byron Shire Council, based on data from AirDNA, 1 November 2019

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Appendix 2 Ministerial Direction 3.7 – Reduction in period of non-hosted short term rental accommodation

1. Reduction in non hosted short term rental accommodation period

1.1. Background

On 11 February 2019, the former Minister for planning, the Hon. Anthony Roberts announced a new Ministerial Direction to address the high concentration of short term rental accommodation in the Byron Shire.

Ministerial Direction 3.7 Reduction in non-hosted accommodation period provides Byron Shire Council with the opportunity to reduce non-hosted short-term rental accommodation to a minimum of 90 days per calendar year, as long as there is a sound base of evidence to support the proposed changes.

1.2. Objective

The objectives of this direction are to:

- (a) mitigate significant impacts of short-term rental accommodation where non hosted short-term rental accommodation period are to be reduced, and
- (b) ensure the impacts of short-term rental accommodation and views of the community are considered.

1.3. Application

Ministerial Direction 3.7 applies when Byron Shire Council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.

1.4. What a planning proposal Authority must do if this direction applies

The council must include provisions which give effect to the following principles in a planning proposal to which this direction applies:

- non-hosted short term rental accommodation periods must not be reduced to be less than 90 days
- the reasons for changing the non-hosted short-term rental accommodation period should be clearly articulated
- there should be a sound evidence base for the proposed change, including evidence of the availability of short-term rental accommodation in the area (or parts of the area) in the 12 months preceding the proposal, relative to the amount of housing in the area, and trend data on the availability of short-term rental accommodation over the past 5 years.
- the impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including social and economic impacts for the community in general, and impacted property owners specifically.

2. Impacts of short term rental accommodation

2.1. Local neighbourhood impacts

Poorly managed STRA can have adverse impacts on residential amenity and quality of life as a result of increased levels of noise, parking congestion and antisocial behaviour.

A recent study by researchers from Southern Cross University into the impacts of Airbnb in the Byron Shire drew similar conclusions. Over 70% of survey respondents agreed that Airbnb leads to increased noise levels and adverse impacts on the lifestyle of neighbourhood residents (Che et. al., 2019).

A large number of complaints received by Council relate to STRA in some way, from conflict over noise issues, through to illegal building work such as enclosed garages, extensions or outbuildings that have been constructed to facilitate STRA.

Compliance and enforcement of these issues is also very challenging. Due to the intermittent nature of noise disturbances, it can be difficult for compliance officers to gather sufficient evidence to proceed with legal action. Often, disturbances return periodically resulting in repeat reports to Council and ongoing frustration for neighbours.

2.2. Housing market impacts

Detractors of platforms like Airbnb contend that increasing utilisation of dwellings for short term rental accommodation is contributing to worsening affordability and availability of rentals by removing dwellings from the housing market.

Nicole Gurran et. al.'s 2018 report for the Australian Coastal Council compared the Airbnb monthly income for frequently available whole houses as a proportion of median rental rates for seven coastal LGA's in Australia, and found that the income from holiday rentals was up to 170% of the income derived from existing permanent rental properties. Interviewees on NSW south coast, Byron Shire and Mornington peninsula commented on the rise of a new type of investor who purchased solely for the purpose of operating a holiday rental and that real estate agents had been spruiking priorities on the basis of income from short term rental accommodation.

Anecdotally, this has resulted in displacement of long term residents leading to concerns over loss of community and lack of appropriate accommodation for key workers. Media reports have commented on the impact of the booming housing market on locals who face the prospect of being forced out of the area, while tenants face eviction as an increasing number of landowners move properties over to the tourism sector (MacKenzie, 2019).

Gurran et. al. (2018) characterise this effect as 'tourism displacement', where local workers and residents can no longer afford to buy or rent in the locality, but there is an abundant supply of short term rentals. The report comments that 'Byron exhibits all the characteristics of a housing market that has been a housing market that had been distorted by Airbnb'.

2.3. Disruption to Sense of Community

The increasing prevalence of STRA can lead to disruption in local communities as residents move away, only to be replaced by a transient population of tourists and visitors. Remaining residents can feel isolated and surrounded by strangers. Some commentators have also pointed to the loss of social capital with impacts on volunteering, community groups and sporting clubs.

In Che et. al.'s 2019 study into the impacts of Airbnb in the Byron Shire, impact on community was the second most commonly cited adverse impact associated with Airbnb after reduced housing supply and increased prices for long term rentals. 68% of interviewees agreed that Airbnb was contributing to the displacement of locals and a loss of community and neighbourhood.

2.4. Impacts on approved accommodation providers

In contrast with the STRA sector, traditional accommodation providers such as hotels and motels pay higher commercial rates, infrastructure servicing levies, provide car parking for guests and are subject to more stringent fire safety regulations. This has led to claims by some of an 'uneven playing field' which favours the short term rental market.

Looking further into this impact, researchers from Southern Cross University School of Business and Tourism are currently investigating the impacts of STRA (including Airbnb) on Approved Accommodation Providers (AAP's) in the Byron Shire. The study involves semi structured interviews and a survey to gain insight into the perspectives AAP's.

Preliminary analysis of the survey data shows that the majority of respondents (84%) reported a decrease in occupancy rates and in their net revenue (82%). As a consequence, around half the respondents considered changing their business operations, including selling (40%), upgrading or renovating (40%) or repositioning their business to target a different type of guest (48%). There was a high degree of agreement that the growth in STRA had led to changes in personal lives, including increased stress (74%) and decreased job satisfaction. Overwhelmingly, respondents felt that STRA needed better regulation and that the growth of the sector had led to an 'unequal playing field for AAP's' and decreased commercial viability for approved businesses.

3. Evidence for the proposed changes

3.1. Availability of STRA

Evidence of the availability of short term rental accommodation in the previous 12 months, relative to the amount of housing in the area is provided in the listings analysis in **Appendix 1**.

3.2. Trend data

The Direction requires Council to provide trend data on the availability of short-term rental accommodation over the past 5 years. The listings analysis includes detailed trend data covering a period of 41 months or approximately 3 ½ years, which falls short of this requirement by 19 months.

Justification for the inconsistency

The inconsistency is considered to be of minor significance for the following reasons:

- Despite a literature review and exhaustive data search, detailed trend data for the Byron Shire going back 5 years to November 2014 could not be located. This is due to the fact that commercial platforms such as Airbnb and HomeAway do not make their data publicly available, which forces researchers to obtain data from third parties. None of the third parties contacted by Council had detailed data going back five years, with the most complete data set stretching back to mid-2016. Given these limitations, strict compliance with the Ministerial Direction is not possible in the circumstances.

- The data set used in this analysis covers a period of 41 months going back to July 2016. Figures 8 and 9 in **Appendix 1** illustrate a strong growth trend, with listings more than doubling over the reporting period. The growth trend provides evidence of a significant uplift in listings with a particular concentration of activity in Byron Bay. It is clear from the observed pattern that the number of STRA properties relative to dwelling supply is extremely high and there is a need to introduce planning controls which are responsive to local circumstances.
- Obtaining additional data going back a further 19 months (if even possible) would be highly unlikely to change the observed growth trend and is unnecessary to justify the reduced day limits for non-hosted STRA. Obtaining the additional data would not serve any meaningful purpose and therefore strict adherence could be viewed as unnecessary and unreasonable in the circumstances given that the intent of the Direction is satisfied by the available data.

4. Period of non-hosted accommodation

It is intended that STRA will be excluded from certain Council owned or managed land and urban release area land identified in a State or Council strategy or planning instrument. A map of the proposed excluded lands is included in Appendix 3. This is to ensure new land required to meet dwellings and population targets will remain available for long term residential accommodation and will not be utilised by the STRA sector.

Arguably, this amounts to a reduction in the period of non-hosted accommodation to less than 90 days in some areas.

Justification for the inconsistency

This inconsistency is considered to be of minor significance for the following reasons:

- The amount of excluded land is relatively small when compared to the amount of land where STRA will be permitted.
- New dwellings in the Byron Shire are at increased risk of being converted to STRA as a primary use. As such, excluding STRA from new release areas is essential for Council to be able to meet population and dwellings targets outlined in Council and regional Strategies.
- Areas identified for exclusion are currently undeveloped and there are no existing STRA operators in these areas that will be affected by the proposal.

5. Reasons for the proposed changes

New planning rules are needed to manage the environmental, social and economic impacts of STRA in the Byron Shire. A reduction in the period of non-hosted short term rental is considered necessary for the following reasons:

- A reduction in the number of days will reduce the intensity of usage in some areas experiencing high concentrations of STRA activity, leading to fewer neighbourhood conflicts, less noise, garbage problems and parking congestion. Limitations on occupancy levels and minimum standards for car parking will also assist in improving management of non-hosted STRA.

- Reducing the number of days may potentially encourage more dwellings back to the long term housing market. The day cap recognises that some dwellings are being used as de-facto tourist accommodation and this is having an adverse impact on the availability of housing.
- The prohibition on STRA for Council owned land and certain urban release areas will serve to protect new land from being consumed by the STRA sector, helping longer term planning efforts to provide enough new housing to meet population targets.
- The introduction of planning controls for the STRA sector will improve accountability and equity with traditional tourist and visitor accommodation providers and ensure appropriate oversight of the STRA sector.

6. Impacts of reducing the non-hosted short term rental accommodation period

6.1. Impacts on property owners

The majority of property owners offering non-hosted accommodation for less than 90 days per year are unlikely to be significantly affected by the proposed planning rules. If a dwelling meets the relevant standards for exempt development, the host will be able to offer STRA without the need for Council approval.

STRA providers that are unable to satisfy the exempt development requirements will have the option of gaining consent through a development application and may incur costs associated with this process.

Frequently utilised properties which are reserved for more than 90 days per year will be the most significantly affected, as they will need to reduce the number of days they are currently operating and may also need to obtain development consent in some circumstances if they choose to continue with a 90 day operating limit. This is expected to affect approximately 45% of active listings.

Economic impacts will depend on a range of factors including the difference in potential rental income between the short term and long term markets. A 90 day cap has the potential to reduce the income that a property owner can achieve from the STRA market, although the significance of the impact will vary between properties.

6.2. Social and economic impacts

In 2019, the majority of accommodation in the Byron Shire is holiday houses (STRA), which is now estimated to account for 40% of all bed spaces (Byron Shire Council Accommodation Audit, 2019).

Capping the non-hosted accommodation period to 90 days per year could potentially have flow on effects to the economy and employment by reducing the number of beds available to overnight visitors. The level to which this would be offset by increased occupancy amongst approved accommodation providers or new casual entrants to the STRA market is difficult to estimate, although it is likely that the proposed planning rules would result in an overall decrease in the existing levels of tourist accommodation if fully implemented.

Whilst it is important to acknowledge the economic contribution of a large holiday letting sector, a balance needs to be struck between the economic benefits of tourism and the social and environmental implications of a run-away STRA sector.

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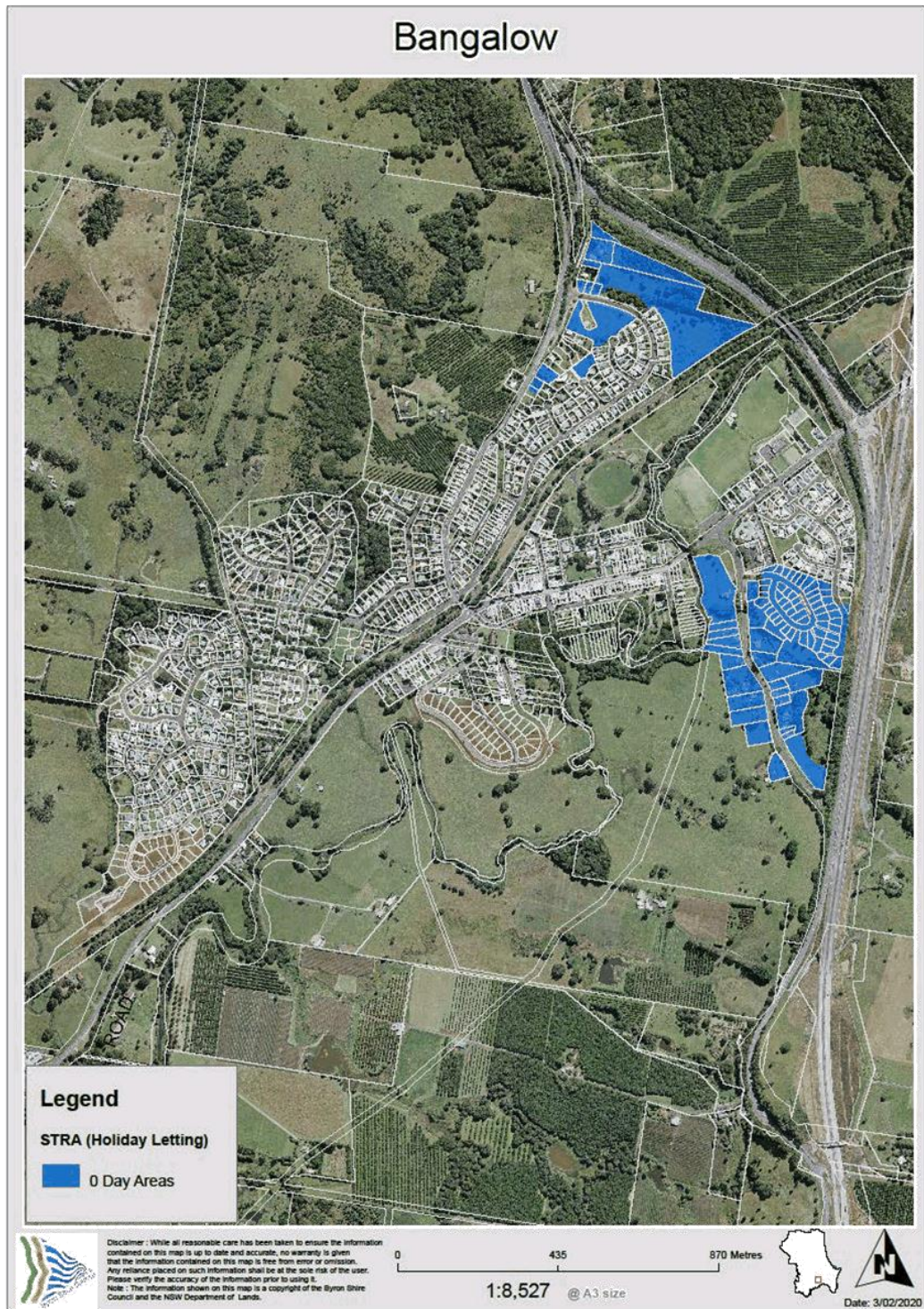
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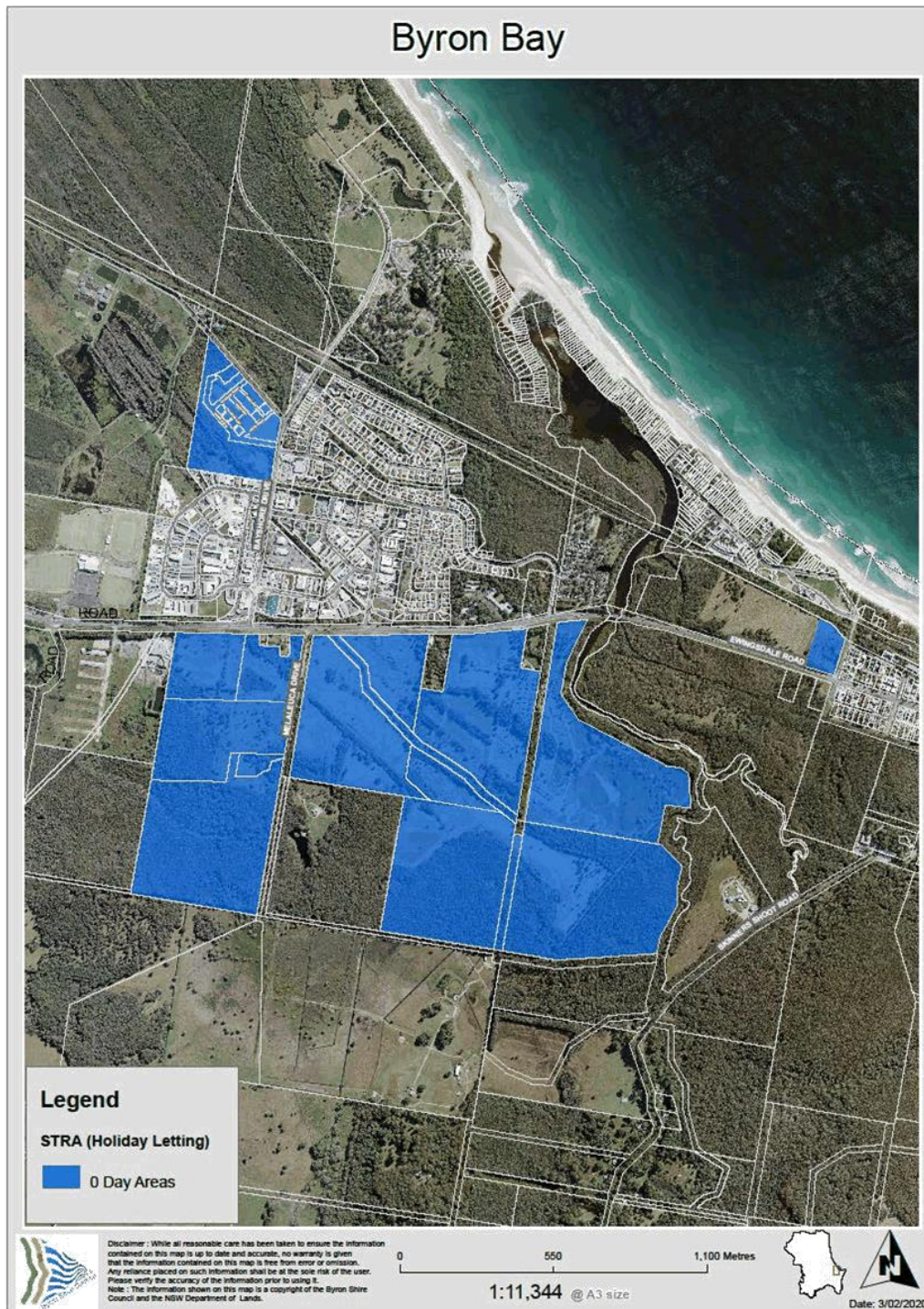
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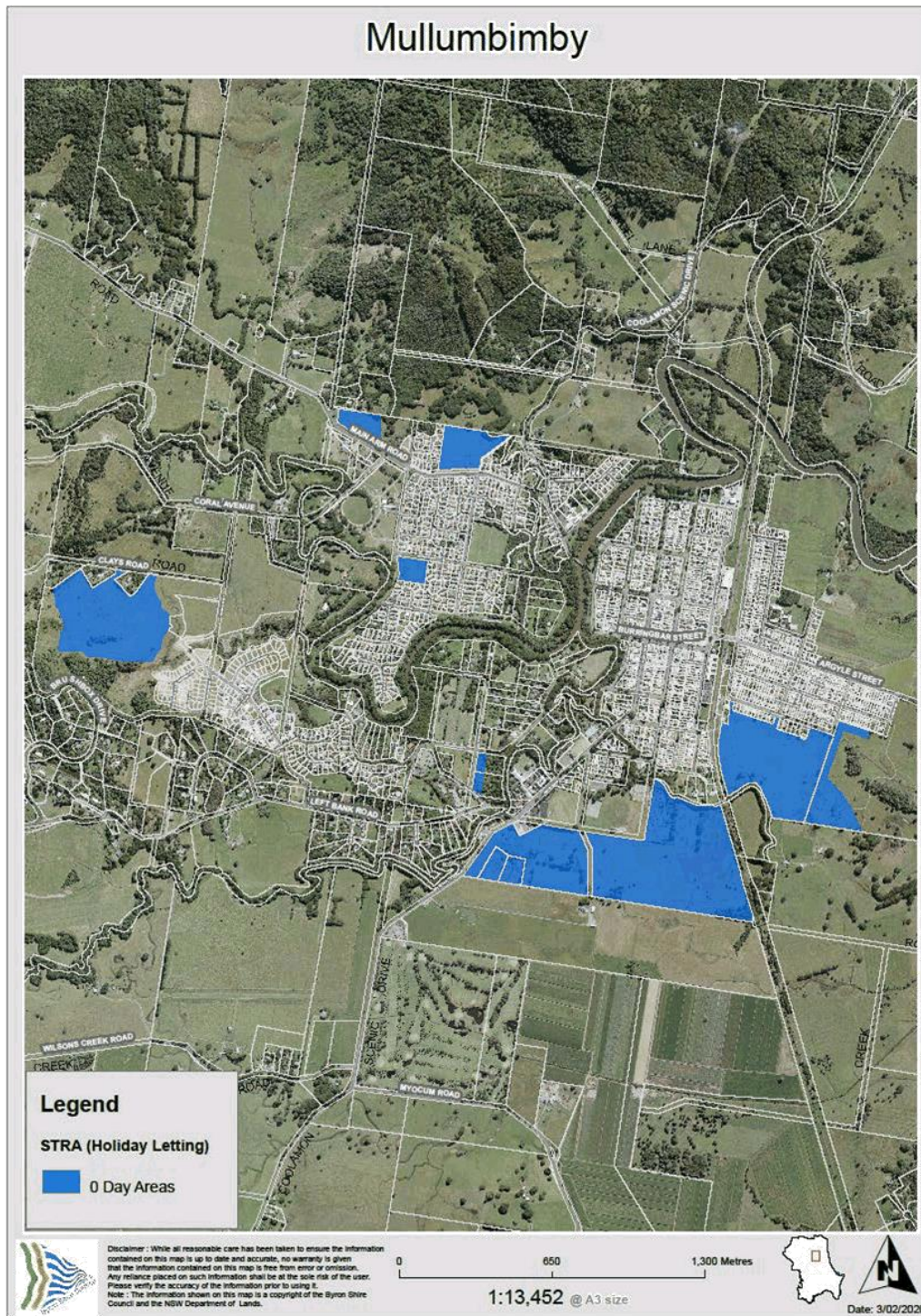
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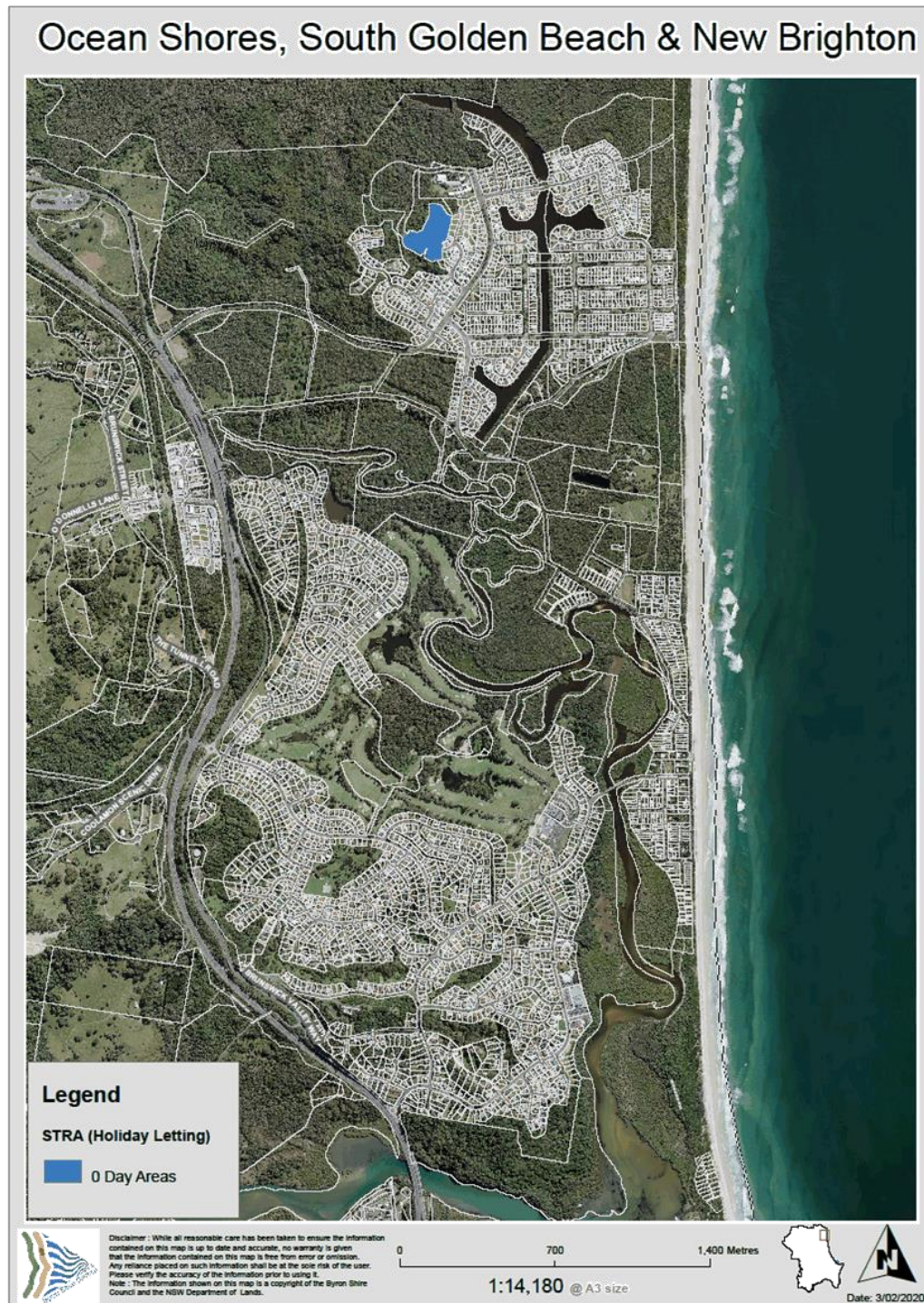
Appendix 3 Mapping











Appendix 4 Proposed LEP Amendments

1. Definitions

Insert a new definition of short-term rental accommodation into the LEP 2014 dictionary as follows:

short-term rental accommodation means an existing dwelling—

- (a) *that is lawfully used by the owner, tenant or permanent resident of the dwelling (the host) to provide accommodation on a commercial basis for a temporary or short-term period, with or without the host residing on the premises during that period, and*
- (b) *that, if it were used predominantly as a place of residence, would be one of the following types of residential accommodation—*
 - (i) *an attached dwelling,*
 - (ii) *a dual occupancy,*
 - (iii) *a dwelling house,*
 - (iv) *multi dwelling housing,*
 - (v) *a residential flat building,*
 - (vi) *a rural workers' dwelling,*
 - (vii) *a secondary dwelling,*
 - (viii) *a semi-detached dwelling,*
 - (ix) *shop top housing*

non-hosted short-term rental accommodation means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.

hosted short-term rental accommodation means short-term rental accommodation provided where the host resides on the premises during the provision of the accommodation.

host—see the definition of short-term rental accommodation

permanent resident of a dwelling means a person who permanently resides at the dwelling.

tenant has the same meaning as in the Residential Tenancies Act 2010.

2. Permissibility

Amend the land use table in LEP 2014 to make STRA permissible with consent in all land use zones where dwellings are permitted with consent, as follows:

- RU1 Primary Production;
- RU2 Rural Landscape;
- RU 5 Village;
- R2 Low Density Residential;
- R3 Medium Density Residential;
- R5 Large Lot Residential
- Zone B1 Neighbourhood Centre (shop top housing only)
- Zone B2 Local centre (shop top housing only)
- Zone B4 Mixed Use.

3. Mapping

Insert a new mapping overlay to identify land where non-hosted STRA will not be permitted. Refer to the indicative maps in Appendix 3.

4. Matters for consideration

Insert a new local provisions clause under Part 6 of LEP 2014 to set out the aims and objectives and matters to be considered when assessing a development application for short-term rental accommodation.

In summary, the new clause will:

- Establish the aims and objectives and matters to be considered when assessing a development application for short-term rental accommodation.
- Set out certain matters for consideration for potential impacts on neighbourhood amenity and the adequacy of parking and wastewater.
- Prohibit a dwelling from being used for non-hosted STRA for more than 90 days per calendar year.
- Prohibit a dwelling from being used for non-hosted STRA where it is located on land identified by the STRA exclusion map.
- Restrict the number of persons occupying a dwelling being used for non-hosted STRA to no more than 2 persons per bedroom, up to a maximum of 12 persons in total, whichever is the lesser.
- Requires property to be included on a Council register of short term rental accommodation.

5. Exempt development

Insert a new clause into Schedule 2 of Byron LEP 2014 that will allow hosted and non-hosted short term rental accommodation as exempt development in the following circumstances:

- Hosted accommodation allowed 365 days per calendar year;
- Non-hosted accommodation limited to 90 days per calendar year;
- Non-hosted accommodation not permitted on bush fire prone land or flood prone land;
- Non-hosted accommodation not permitted on land identified on the short term rental accommodation exclusion map.
- The dwelling must not be a (or be part of), a group home, a hostel, seniors housing, an eco tourist facility, tourist and visitor accommodation, a camping ground, caravan park or a moveable dwelling.
- The dwelling must not be approved under the Affordable Rental Housing State Environmental Planning Policy 2008.
- Occupancy limited to 2 persons per bedroom, up to a maximum of 12 persons in total, whichever is the lesser;
- Requires property to be included on a Council register of short term rental accommodation
- Requires compliance with fire safety standards under the BCA and EP&A regulations.
- Requires an A3 sign to be placed at the front of the property advising the public of the landowners or property manager's details to enable complaints to be made and wording to advise that the property is registered with Byron Shire Council.
- Minimum requirement for car parking of 1 space for a two bedroom dwelling and two carparks for a dwelling with three bedrooms or more.
- Dwellings not connected to reticulated sewer must be serviced by an approved on-site waste water management system with a current approval to operate.

The status quo for STR should remain as is

- * for making travel affordable for families and the not so wealthy as its not as costly , more room , access to kitchen and laundry
 - *Great way to enjoy local customs and culture and generate local economic activity without the global chain getting the economic benefit
 - *Access to quaint, eclectic venues not noisy,dirty, more expensive small roomed hotels
 - * Allows ST accommodation for temporary needs eg weddings reunions , special events in larger and smaller centres
 - *Increased tourism and economic benefits to community
 - *property owners are more easily able to afford mortgage
 - *A variety of hosts across society can be a host and promote the area. Provides employment in places where unemployment levels are high
- STR should adhere to tax laws and there should be standards of behaviour adhered to
- The status quo for STR should remain as is
- * for making travel affordable for families and the not so wealthy as its not as costly , more room , access to kitchen and laundry
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 - *property owners are more easily able to afford mortgage
 - *A variety of hosts across society can be a host and promote the area. Provides employment in places where unemployment levels are high

However

- **STR should adhere to tax laws**
- **There should be standards of behaviour required**
- **Belong to a Local STR body (not an expensive membership but based on what is earned**
- **Tax paid according to the tax laws**

This STR industry has grown according to a need in the already existing accommodation market. It should not be allowed to be taken over by big business or destroyed by the hotel lobby. It is a boon for small enterprise. I am so pleased to be a part of it

As it is becoming very common in tourist towns, especially Byron Bay, residential accommodation is illegally being let on a short-term basis, within residentially zoned areas for the use of short-term holiday accommodation (STHL). I understand the Byron Shire Council has made a submission to the NSW government. Unfortunately, these forces continue to detrimentally alter the social fabric of the town and reduce amenity to surrounding residents in multiple ways.

There are multiple examples in the Byron Shire of absentee landlords renting their properties nearly all the year (365 days) on a commercial scale.

Some residential blocks of units in the Byron Shire operate as one cohesive group and rent all the units in the block, using a dedicated website and permanent onsite office manager operating in the form of a Motel, with no existing DA, in a residentially zoned area. Units are available for rent 365 days per year. **See Julian's Apartments at [REDACTED]**.

I think when discussing STHL it is important to highlight the differences in properties being let for a small short-term gain by local residents compared to blocks of units operating 365 days a year in the form of Motels without appropriate DA's via absentee landlords.

STHL operating within residential zones mostly do not provide adequate disabled access, do not meet appropriate fire regulations, do not have appropriate public liability insurance, do not always pay appropriate GST, mostly do not limit guest numbers and do not contribute a proportionate amount of resources back to the local council for the level of services that they draw down on due to the multiple numbers of guests being turned over within accommodation.

Residential property owners that buy property in Byron Bay buy property with the understanding that the residential zoning rules will be applied. Unfortunately to date these rules have not been applied across the Shire and locals living permanently in the Shire that make up the social fabric have consequently suffered reduced amenity for the commercial gain of STHL owners that have let their properties.

It is my strong belief that all STHL should be capped at 90 days within all R2 and R3 zones. To create areas within each of these zones with different rules (90 or 365 days) undermines the purpose of the zoning rules in the first place.

Any property wishing to use STHL should be registered with the council. The council should also charge an ongoing registration fee to maintain registration. There should also be an updated permanent public register that the public can access so that when they are determining if they should purchase a property or rent a property, they should understand where local STHL exists and the properties history.

It should be remembered STHL occupants differ from long-term residential occupants in that they:

- prioritise leisure or festive activities
- are unfamiliar with local rules to manage amenity of other permanent local residents; and
- are less concerned about maintaining neighbourly relations

As a long-term resident of the Byron Shire over 40 years I have noted how families have had to leave the Byron Shire because the property prices have become unaffordable. Social networks have been diminished due to the increasing number of absentee landlords renting their properties via STHL.

STHL reduces the amenity for local families and the rights of local families should out way the rights of absentee landlords that rent their properties out for most of the year.

I would hope when the council considers their decision regarding STHL that they appropriately weigh up the importance of the short-term and long-term needs required for local residents against the needs of absentee landlords that are STHL their properties for pure commercial gain.

Submission on the Draft Planning Controls for Short Term Rental Accommodation

Bruce Penman
[REDACTED]

The following submission is made in response to the January 2020 exhibition of the proposed draft planning controls for Short Term Rental Accommodation (STRA) in Byron Shire:

1. **Lack of reasons and sound evidence base for reducing the rental period.** Council has not provided clear articulation of the reasons why 90 days has been selected in North Ocean Shores and indeed in most of Byron Shire. There is no sound evidence base for the change. How was 90 days arrived at? Why isn't 180 days proposed as per the State Environmental Planning Policy (SEPP) limits adopted for other Shires such as neighbouring Ballina Shire? It is submitted that 180 days is a more reasonable limit, particularly in areas within close walking distance of the beach, where property values are higher, and where there tends to be a greater concentration of STRA properties. There is no reasoning provided to show how a 90 day limit better achieves the objectives of the controls compared to a 180 day limit. This was a requirement of the Ministerial direction (dot points two and three).
2. **Lack of clear definition of "days".** The planning controls are unclear whether the number of days per calendar year is "availability" or "offering" days or "occupied" days. Properties used for STRA would rarely achieve 100% occupancy so if the intention is for the controls to apply to "occupied" days (nights is actually a better term), then this needs to be clearly defined and not implied. If the 90 days were to apply to available or offering days, then some properties would only achieve 50-60% of this as actual occupancy, and thus would be unreasonably limited as to their use. A definition needs to be included to remove any doubt.
3. **Poor drafting of the new clause (to Schedule 2 of Byron LEP 2014).** Dot point 3 of the new clause is poorly drafted, and the words "not permitted" are misleading. Non-hosted accommodation on bush fire prone land would be permissible but only as complying development. The wording needs to be reviewed to clarify this.
4. **Impacts of reducing the STRA period.** For our property which has dual use as a family holiday home and STRA, there will be no social benefits for housing supply or affordability by introducing these controls. None.
There would be an economic loss in Byron Shire as a result of the reduced local expenditure by ourselves (on property management services) and our guests (on local goods and services) if we revert to just using the house as a family holiday home.
But if we choose to continue the part time STRA use, the impact of having to comply with the controls (by submitting a DA, making modifications, complying with bush fire hazard reduction controls, and complying with yet-to-be drafted local requirements) would place an unreasonable financial burden on us as owners, for no social or amenity gain. The STRA use of our property has minimal impact on local amenity as it is already well managed by a local real estate agent.
These economic costs need to be articulated as per dot point four of the Ministerial direction.
5. **Managed accommodation.** No credit has been given to properties that are well managed by local agents in Byron Shire. A third category should be included in the controls being "managed STRA" which should carry the same exemptions as hosted STRA. Many managed properties already achieve the aims of the planning controls and the SEPP (contracts for renters, 24 hour hotline, bonds held etc) and have been doing so for many years, with a strong investment in local jobs through management fees, local cleaners and local service providers.

6. **Register of STRA properties.** I fear that the register of STRA properties will be used as a basis for higher rates and for the application of a STRA register fee, to raise the revenue needed to manage compliance of STRA under the new controls. Council needs to be clear about whether or not those who participate in the register will be charged commercial rates and an STRA register fee. If the planning controls are truly designed to achieve broad economic and social benefits for Byron Shire, then the compliance costs (which will be considerable) needs to be shared by all ratepayers.
7. **Lack of clarity on new local clause.** There is no information regarding the new local clause under Part 6 of the LEP which will set out the matters to be considered when assessing a DA for STRA. This is a significant omission and leaves property owners like ourselves, exposed to uncertainty as to what the actual rules will be for compliance where a DA is required. If past experience on STRA is the guide, then we fear unreasonable compliance standards will be imposed, if Council drafts provisions that don't align with the SEPP or the State-wide approach to STRA.

Finally, if Council is serious about fair regulation of STRA, then a consistent approach needs to be taken so that all STRA in Byron Shire is targeted for control and compliance. This will take considerable resources, the magnitude of which I expect has been underestimated. Our concern is that managed STRA, being those properties in the portfolios managed by local real estate agents will be seen as "low hanging fruit" to be early targets for compliance. Properties only advertised online don't have the visibility that managed properties do, and can be quickly unlisted by the owners, only to be relisted once the initial pressure from Council eases off. This will need to be addressed.

Brunswick Heads. Chamber of Commerce.



ABN 19 217 506 370

POSTAL ADDRESS

PO Box 184

Brunswick Heads

NSW 2483

**BRUNSWICK HEADS CHAMBER OF COMMERCE INC
SUBMISSION TO BYRON SHIRE COUNCIL ON HOLIDAY LETTING
29 January 2020**

The Council Staff Report No 13.27 approved by Council at its meeting on the 12th December 2019, states that the Government's Local Planning Direction 3.7 Reduction in Non Hosted Short Term Rental Accommodation Period, (LPD 3.7) *"gives Council the opportunity to implement local planning rules for short term rental accommodation rather than being subject to the planning rules of the SEPP"* i.e. the proposed State Environmental Planning Policy (Short Term Rental Accommodation) 2019.

The new planning controls proposed for Short Term Rental Accommodation (STRA) published by Council on 23rd December 2019, states that *"we are the first Council in NSW with a proposal to amend issues we experience as a result of short term rental accommodation in our shire" and "Staff will review the feedback received from the community and refine or amend the planning controls where necessary. A planning proposal to amend Byron LEP 2014 will then be prepared and reported to Council for endorsement."* While this amendment was approved at the Council Meeting held on 12th December, *"the aims and objectives and matters to be considered when assessing a development application for short-term accommodation"* to be included in these amendments, have not as yet been determined.

However, the State Government's LPD 3.7 does not request that any amendment to the Byron LEP 2014 needs to be made. It only requests a planning proposal which would *"identify or reduce the number of days that non-hosted short-term holiday accommodation may be carried out in part of its local government area"*.

In addition to being subject to the SEPP referred to above, the 12 Councils in NSW that have already been approved by the Government for reduction in their number of days per year of non-hosted STRA, have been required to delete all clauses, definitions and schedules specifically related to STRA's from their Local Environmental Plans.

We don't believe that Byron Shire Council should be the only Council in NSW permitted to make such major changes to its LEP. This is because such changes would not be compatible with the proposed State Government's Fair Trading Amendment (Code of Conduct for Short-term Rental Accommodation Industry) Regulation 2019 under the Fair Trading Act 1987. The intention of this Code of Conduct is to achieve *"a state-wide planning framework to achieve consistency and certainty across local planning controls."* We don't believe that such consistency and certainty across local planning controls is likely to be achieved if the Byron Shire Council is permitted to make such major changes to its LEP. We are also concerned that these changes to the Byron LEP 2014 will result in ongoing fees being applied to STRA's by the Council, in addition to the fees that Fair Trading is also expected to charge.

The LPD 3.7 also requires that:

1. *"The reasons for changing the non-hosted short-term rental should be clearly articulated."*
2. *"There should be sound evidence for the proposed change, including the availability of short-term rental accommodation in the area (or parts of the area) in the 12 months preceding the proposal, relative to the amount of housing in the area, and trend data on the availability of short-term rental accommodation over the past 5 years."*

3. *"The impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including the social and economic impacts for the community in general, and impacted property owners specifically."*

The New Planning Controls proposed for Short Term Rental Accommodation published by the Council on 23rd December 2019 ([www.byron.nsw.gov.au/Council/Media-centre/Media-releases/New planning controls provides proposed for Short Term Rental Accommodation](http://www.byron.nsw.gov.au/Council/Media-centre/Media-releases/New%20planning%20controls%20provides%20proposed%20for%20Short%20Term%20Rental%20Accommodation)) and the Council's related request for Feedback on its Draft Planning controls for Short Term Holiday Letting (<https://www.yoursaybyronshire.com.au/holiday-letting>), do not provide any of the essential information that is required by the LPD 3.7 as detailed above.

In the Council's request for feedback under "What are the new planning provisions?" it states that "365 days per year has been suggested at Wategos, Belongil and Shirley St" and that "the rest of the shire will be limited to 90 days per calendar year." No explanation has been provided as to why the 365 days per year have been suggested for Wategos, Belongil and Shirley St or for the basis on which the decision has been made for the rest of the shire to be limited to 90 days. The Brunswick Heads Chamber of Commerce has made a number of previous submissions to maintain the current 365 days per year, but it appears that the Council staff preparing the current proposal were not aware of the Chamber's submissions.

Brunswick Heads holiday accommodation

The Brunswick Heads' tourist demographic is very different from that of Byron Bay and the Brunswick Heads' Simple Pleasures branding has been highly successful in managing tourism. We have ensured that the relationship between visitors and residents is harmonious and that tourists visiting Brunswick Heads have a minimal negative impact on the local community, whilst boosting the local economy.

Holiday accommodation alternatives to STRA in Brunswick Heads are very limited compared with Byron Bay. Brunswick Heads has very little commercial tourism accommodation. There are only four motels and one licenced bed and breakfast on the outskirts of town, and its only hotel no longer provides any tourist accommodation. Although the town has three holiday parks, managed by NSW Crown Holiday Parks, many people prefer to stay in the towns STRA holiday houses and apartments. Brunswick Heads has no backpacker or serviced apartment holiday accommodation.

For over 60 years, until the late 1980's, Brunswick Heads had a higher level of tourist visitation than Byron Bay. However, since the late 1980's the town has not experienced the same sort of rapid growth in its tourism numbers as Byron Bay. Tourism is still the only significant driver of the Brunswick economy.

In the last 20 years there has not been a significant growth in STRA managed by the 3 local real estate agents in Brunswick Heads. In 2008 it was estimated that there were 59 holiday letting properties in Brunswick managed by local real estate agents. There are now about 61 such properties. There has, however, been some growth in Airbnb and similar services during this time, both hosted and not hosted, although the exact number of these is difficult to determine. But there has not been anywhere near the significant growth in this sector as in Byron Bay. Any negative social impacts from the growth in non-hosted Airbnb in our town has been minimal.

Housing Affordability

Attempts to limit holiday letting several years ago were made on the basis of noise and party related behaviour. A more recent focus of the anti-holiday letting lobby has been to claim that holiday letting is the cause of housing unaffordability and the loss of permanent rentals. This may well apply to Byron Bay, but there has been no evidence to suggest that this is the case in Brunswick Heads. The level of STRA's has not increased dramatically in Brunswick Heads, as it has in Byron Bay.

There are housing affordability problems in Brunswick Heads, as in many coastal towns. However, these problems will not be resolved by limiting STRA's to 90 days p.a. Even if some current owners were to convert their STRA properties to permanent rentals, they would not

necessarily become "affordable". Council has provided no evidence of any cause and effect of STRA's in Brunswick Heads over the last decade and no social impact studies have been undertaken to confirm that this is the case. It is not acceptable to look at the issue purely on a shire-wide basis and to make radical changes that will have serious flow-on effects on our town's fragile economy. As stated previously, Brunswick Heads is very different from Byron Bay and should be considered separately, using data collected from Brunswick Heads.

A number of the more affordable residential rental properties in Brunswick are located above or directly connected to shops and offices in the commercial zone. If a 90 day limit is placed on STRA's in the residential zone, it is then quite likely that a number of these residential properties in the commercial zone would be converted to holiday letting for 365 days a year, to make up for the closing down of many of the STRA's in the residential zone. This could have a significant impact on residential housing affordability in the town. The three Brunswick Heads holiday parks might also take advantage of this resultant loss of holiday accommodation and seek to significantly extend the number of holiday cabins along the foreshore. The local community was not happy when this was proposed in a previous Holiday Parks Plan of Management.

Impacts of Reducing Non-hosted STRA's to 90 days

We have evidence to show that when cleaning costs, management fees, repairs and maintenance, marketing and other costs are deducted, the net income from Brunswick Heads real estate agent managed STRA's is quite similar to the net permanent rental income that could be derived from these properties. In fact, our three real estate agents generally encourage new investors to permanently rent out their properties, rather than holiday let them. Most of these properties are owned by people who do not live permanently in Brunswick Heads. They use their holiday homes themselves and make them available for their family and friends. A number of these people also purchased these properties with a view to eventually living there permanently themselves. Net annual returns on holiday rentals in Brunswick Heads are also nothing like they are in Byron Bay.

A 90 day limit, resulting in maximum occupancy rates of 25%, would render most local real estate managed STRA's in the town financially unviable. In 2015, when the Council was then also considering a 90 day per year limit on holiday letting, the Brunswick Heads Chamber conducted a survey of the local real estate agents' holiday property clients. Over 80% of them said that if they were limited to only 90 days of holiday letting, they would consider either selling their properties or retaining them for holiday use by their own family, friends and relatives, rather than letting them out permanently. Most of those that are converted across to permanent accommodation, are unlikely to be affordable.

It is most unlikely that most families who frequently visit Brunswick Heads and who normally stay in holiday houses and apartments would not be happy staying in accommodation in someone else's home, as is the case in hosted STRA's. This is likely to result in a further decrease in the visitation by our traditional family based tourists.

If non-hosted STRA's were limited to 90 days a year, it may be that some STRA's, which are not managed by local real estate agents but are listed on Airbnb or similar platforms, may continue to operate, but to what extent is difficult to estimate.

We are most concerned that the introduction of a 90 day per year limit on non-hosted STRA's in all of Brunswick Heads will have dire consequences on our small businesses, employment and our local economy and with far reaching economic multiplier impacts. This will also affect the social cohesion of the local community. We believe that the Council has, to date, failed to consider these consequences.

It is therefore incumbent upon our Council and its representatives to consider carefully all the possible ramifications of the current proposal. The possibility of gaining a few more permanent rentals in town would not justify the negative social and economic impacts of changing the status quo.

Brunswick Heads Business Survey

The Brunswick Chamber of Commerce has been actively involved in STRA issues for about 15 years. However, its many representations on this issue to the Byron Council seem to have been largely ignored. In 2004, in conjunction with the Brunswick Heads community, the Chamber's Tourism Management Group developed the Brunswick Heads Tourism Management Strategy. The central element of this strategy is the Simple Pleasures campaign. The Strategy included the following key objectives:

1. *"To protect the town from inappropriate tourism development and provide the right kind and amount of accommodation in keeping with the town's vision and the visitors' expectations;*
2. *To protect the town from a loss of tourism accommodation;*
3. *To develop a marketing plan for 2004-2009 which focuses on targeting only tourists who are compatible with our community values, rather than increasing tourist numbers."*

Since that time, owners who are associated with the Chamber and the local real estate agents managing STRA's have consistently adhered to these principles.

In November 2019 the Brunswick Heads Business Survey was prepared by the Brunswick Chamber of Commerce. Comprehensive business surveys have been conducted every three years since 2000. The level of survey responses was very strong last year with a total of 70 businesses replying to the survey.

59 businesses responded to Q11 in the survey: *"What percentage of your business is tourism related?"* The results of this response were that:

- *91.7% of businesses are patronised by tourists to some extent. Thus only 8.3% of businesses have no reliance whatsoever on tourism.*
- *For 20.4% of businesses, tourism makes up 90% of their trade.*
- *For over a quarter (26.7%) of businesses, tourism makes up more than 80% of their income.*
- *For two thirds (66.6%) of businesses, tourism makes up half or more of their trade.*

These responses were all made by local businesses.

The 2019 Survey highlighted the town's dependence on tourism. There are no other major economic drivers and none on the horizon. Therefore, business owners are very concerned about any changes that could negatively impact on their business. They shared their concerns and offered up suggestions for how to make the town's economy stronger. Most suggestion resolve around protecting the tourist industry."

In the concluding list of 13 opportunities that were identified by the Survey, Item 11's suggestion was to: *"Persuade Council to retain the status quo for short-term holiday letting, so that tourism, the local economy and jobs are not impacted as a result of reducing the number of days permitted."*

Conclusion

Brunswick Heads is very different from Byron Bay. Unfortunately, much of the information provided by the Council has been generalised for the whole of the shire, when in fact most of this data applies to Byron Bay. The number of tourists visiting Byron Bay and their demographics are profoundly different from those in Brunswick Heads. Indeed, the scale and demographic of tourist visitation in Brunswick Heads is actually not too distinctly different from many other parts of Coastal NSW. It makes no sense that this town should be treated differently from most of the rest of the regional coastal areas of NSW.

Brunswick Heads should therefore not have its STRA reduced to only 90 days per year. Brunswick Heads, just like the rest of state, should also be able to fully take advantage of the Code of Conduct for Short-term Rental Accommodation Industry Regulation under the Fair Trading Act. After all the intention of this Code is to create *"a state-wide planning framework to achieve consistency and certainty across local planning controls"*.

Brunswick Heads does not want to be collateral damage for policies and regulations that are put in place to resolve issues related in Byron Bay. We have no doubt that limiting holiday letting to 90 days would be detrimental to our local economy and employment. As required by the State Government, the impact of reducing the non-hosted short-term rental accommodation period should be fully analysed and explained. This should include the social and economic impacts for the community in general, and impacted property owners specifically and should occur before the Council makes any decision on the matter.

The status quo of 365 days per year STRA has been working well in Brunswick Heads for over a century. The suggested solutions for what is essentially, we believe, a Byron Bay problem, should not be a basis for destroying an industry that has been working so well for our town.

In summary, the Brunswick Heads Chamber of Commerce urges the Council to:

1. Retain the status quo of 365 days for non-hosted STRA's in Brunswick Heads
2. Discuss our rationale and other regulatory proposals with the Chamber and its Holiday Letting Committee
3. Comply with the Fair Trading regulations rather than seeking to significantly amend the Byron LEP 2014.
4. Research & collect data to justify any of Council's proposed changes for Brunswick Heads and provide information on any possible negative ramifications (which the State Government requires) before proceeding.

Sincerely,



JULIANA HARMSEN
Acting President
Brunswick Heads Chamber of Commerce Inc

To: submissions@byron.nsw.gov.au v

Cc: |



Subject: Proposed Development Application for 12 Burns Street

Dear Council,

I am writing to you to oppose the development application of 12 Burns street, Byron Bay DA NO 10.2019.666.1

I do oppose the "Everick Heritage company" for proposing to build a double story set of 4 Apartments totalling in 12 bedrooms . With a total of 16 bathrooms. 4 swimming pools. 4 Garages To be built onto one heritage residential block of land at 12 Burns street which extends onto the small laneway of Little Burns Street.

This seems like an obvious air BNB type Hotel / Mega rental property.

12 Burns street's proposed plan is for as double story set of 4 units Maximising every inch .

I oppose the height level of two stories

As a resident of Little Burns Street when building my home 6 years ago I was allowed to build only a one story dwelling. This was stated because in regulation of this being a heritage area of the town.

The Heritage areas being Buttler street, Burns and Little Burns Streets.

This proposal is a Maximum development development and is Totally out of character to our (once again) 'heritage area.'

It is not family or elderly friendly, it shows no outside grassed living areas. All bedrooms are upstairs making it unsuitable for the elderly. The buildings which are close to the property boundaries show significant height shadowing to properties either side. It does not It does not provide extra parking off the very narrow laneway of Little Burn Street where two of the units face.

It seems that this is the beginning (in our part of town)of profiteers who are not themselves Byron residents to profit in the commercial holiday rental businesses.

The excess of profiteers who come to Byron undermine our community our families and our life style for their gain.

Thank you very much for taking time to read my objections.

Sincerely, Carole Coffey

Submission to Your Say, Byron Council

Byron Council's consideration of limiting short term rentals to 90 days per year is counter-intuitive if the aim is to give Byron "back to the residents" or to return it to a quiet beachside community. It will ensure it's the absolute summer party town. We own a small house on Alcorn St, Suffolk Park that is tightly managed (no parties, weddings or photo opportunities) and largely let to small families. If the 90 day regulation was to apply we'd have to maximise our return to pay the mortgage. That would mean STRA (at maximum rates) for December and January, Easter and other peak school holidays. So we can continue to use it ourselves, we would not rent it out at other times. If others do the same sums it'd ensure a boom and bust cycle for the Byron area.

The 90 day limit would certainly greatly reduce the money we put into the community. At present we have a single mother as our cleaner and she'd lose 9 months work each year. We also use a local linen service and delivery but their income would be reduced 75%. Others we employ regularly but would no longer need for the majority of the year include: bin service, gardener and lawn mower, pool service, window cleaner, BBQ cleaner, gas supply and handyman. We also leave a guide to local shops and restaurants in the house and that is well embraced by our guests. Those businesses would no doubt be busy over summer and quieter at other times.

Obviously, our home would be empty for long periods (ie weeks at a time) when we couldn't be there. I wonder if this is going to be a boom for petty criminals who can rely on exploring many empty houses with good furnishings and equipment?

The NSW government is examining a limit of 180 days per year of STRA. If that was applied in Byron we could manage much as we do now – STRA at times when people wish to visit (spring, summer, school holidays) and live in it ourselves for much of the other half of the year.

Finally, the council is obviously considering applying different rules in different areas. It seems strange that only 90 and 365 day options are provided. But any examination of AirDNA or the like will show there are some (beach and bay-side) streets and areas (ie Suffolk Park east of Broken Head Road) that are much more favoured for a high turnover of visitors while others are more suited to regular suburban life.

Gratefully submitted for your consideration
David McGonigal

Dear Sir / Madame,

Re: Short Term Holiday Letting.

We are owner and permanent residents at Broken Head Reserve Rd. Broken Head.

In our area, we are opposed to non - hosted holiday letting in excess of 90 days. There are several properties where there are non - hosted holiday letting in our small neighbourhood as well as the Pavilion complex which is across the road from us. The complex contains seven residences where there is already unlimited holiday letting. At times there are large groups of people partying noisily past 2 a.m.

The noise and behaviour of all these renters is seriously affecting our community's peace and quiet in this beautiful, tranquil area.

Kind Regards,

Julie and Les Rothbart.

[REDACTED]

Submission to BSC's Draft planning controls for STRA

I have lived in Byron Shire for 12 + years.

My family have owned the land I live on for 40 + years.

My family have run accommodation in Sydney since 1960's and I have 25+ years in the accommodation industry.

Declaration of advocacy: I own one other property other than my home – a holiday rental in Byron Shire.

I applaud BSC for addressing community concerns regarding the rapid increase of STRA at the expense of the local community. I believe BSC has also done the right thing over the years restricting massive development for a more 'village' feel. However, this has meant in order to cover the distinct lack of larger accommodation providers, Byron has become dependent on STRA picking up the slack. If 40% of houses in Byron town (BSC review) are now available as STRA, does that not suggest an enormous market otherwise not catered for? That converts to a huge number of visitors whose money has attracted local investment and created local jobs. Clearly the issue of STRA needs to be addressed with great caution. BSC's current draft plans will create a number of responses most of which will not be to the advantage of the local community.

There are a number of outcomes that could play out from BSC's blanket experiment. Markets usually adapt to conditions and in this age of the disrupter, this is the most likely outcome.

Enforced hosted holiday lets is something already trialled and failed as a solution to Airbnb overseas. Whilst the individual owner/operator may be forced out of the business, a new multi-property investor moves in. These predatory companies essentially commercialize residential communities. They appoint area managers responsible for finding 'hosts' whose job it is to live in the holiday lets and fill the remaining bedrooms as best as possible. (As a property owner I was approached to do just this last year). Here's what happens: A backpacker or cheap alternative stays in the dwelling. They rent out individual rooms to guests. GONE is the family holiday group who so love having their own space and renting a home. Inside Airbnb quotes 79.2% of listings are entire homes or apartments – families don't want to stay in hosted lettings. BSC has worked so hard to make Byron a real family friendly destination and this will utterly undermine those efforts. In effect what happens is these properties become a string of de facto 'backpackers' and the parties will increase now WITH Council's blessings. Yes, the code of conduct is meant to patrol this but in effect Council has created a bigger problem than before and under the new LEP these properties are now development exempt.

For operators like myself who enjoy using the property when not booked, we can no longer enjoy their house as our own as there is a 'host' living there permanently. I have a great relationship with my neighbours, and we work together on numerous local issues – removing owners such as myself will increase dislocation from community.

For other holiday let owners, installing a 'host' will make the investment financially unviable. Previous 2-bedroom places become a one bedroom etc. Again, this will mean the

type of tourist will change – who doesn't mind sharing a house so much? Young folks, not families. BSC claims they would like to see visitors stay longer and spend more. Young, itinerant travellers are the opposite of this.

There is the possibility that the housing market could collapse and it's not the STRA operators who have the most to lose, it's the local community dependent on tourism for their livelihood that will bear the brunt. I don't personally believe this will occur, but it is a possibility and in tandem with other developing economic storm clouds, BSC's gamble is a risky one.

Possible effects of a 90 day restriction on non-hosted holiday lets in residential zones:

1. Massive drop in tourist numbers outside peak periods. How many businesses can survive on 90 days trade a year? If they can't, they're gone. Have a look at the type of businesses that operate in completely seasonal markets. Usually owners lock up shop out of season. Is that what BSC wants to see 6-9 months of the year through the main streets of Byron? The type of businesses that can continue to operate on such seasonal fluctuations are generally ones that have multiple outlets that can spread the risk. i.e. Chain stores. Local, one-off operators will be the most affected.
2. Those who can afford to keep their rental properties will. Houses will sit empty. Favours the rich. As an example, I require to rent my property out approximately half the year to pay for costs, (mortgage, land tax, rates, running costs). 90 days rent will not cover this.
3. Those who can't afford 90 days will either break the law, (BSC be prepared for extended lawsuits), or they will sell up – most likely bought by rich outsiders who will then let the house sit idle. The folly that house prices will crash to the extent that locals who can't afford Byron now will be able to buy in is just a fantasy. Byron house prices will remain high because of demand – see point 2.
4. Affordable housing is a completely different issue and requires proper planning and purpose-built dwellings. The belief that existing multi-million-dollar properties will become 'affordable' housing lacks any credible proof.
5. Properties will be held but turned in to full time rental properties. On the surface, this is not a bad outcome, however if rental rates crash, then look to points 1-3. People aren't going to hold onto properties if they can't get a reasonable return, (remembering what they paid for them). The demand for property in Byron is still huge, so people wanting holiday homes will buy in and leave them idle.
6. A huge amount of money private and public has been invested in events that sit outside the school holiday and busy periods of the year. Music festivals, writers festivals, film festivals, surf festivals, swim festivals, spirit festivals, vintage car & clothes etc and those that exist outside of Byron town itself including Mullumbimby and Bangalow's various festivals and of course the entire wedding sector. Imagine all the workers dependant on these industries who will be unable to find continual work 6-9 months a year, where will they go? The restaurants, cafes, retail, cleaners, carpenters, electricians, plumbers and all the artisans and local markets whose survival is dependent on tourists. This is the very heart of our community. Where will they get the money to live when all these tourists go?

7. Indiscriminate plans will punish good operators and reward those who will weasel their way around it. In terms of dealing with the issue of disruptive behaviour, a properly funded and enforced code of conduct is the way to proceed.
8. BSC must accept that much of this problem is their own making. E.g. the exempt development of granny flats has created a huge STRA outlet and Council has had no success so far in enforcing its rules here. The history of holiday lets in Australia is iconic – yes it has got out of hand, but how that is handled is critical to the future of the Shire.

Suggestions:

1. Find a middle path. Why not spread the tourist load so that Byron Shire becomes a truly sustainable tourist destination? Perhaps limit STRA in zoned high-density and/or mid-density residential areas? Allow nearby towns to share in the dollars. Definitely create a code of conduct but ensure its enforceable.
2. ALL accommodation providers be they hotel/backpackers/apartment and Airbnb type should pay a bed tax to help cover the cost of vital infrastructure of Byron Shire and help alleviate the impact of tourists on public infrastructure. What about \$1 per bed, per night? If this is not possible, then a specific rate levy should be applied. Properties that comply would earn a BSC 'tick of approval' to advertise with. This could be part of the Code of Conduct or a voluntary system that with BSC awareness campaign and advertising through on-line platforms etc, would become the preferred option for visitors wishing to support sustainable tourism. This money could then go towards the huge cost of enforcement. Businesses and tourists must pay their share – it is currently unsustainable for the small amount of rate payers to cover the costs of 2 million visitors a year.

Byron Shire has built a solid reputation for low-key, family friendly tourism. This amendment threatens that vision. Keep the community happy. Keep the family-friendly vision. Keep the jobs. Fund BSC to better deal with the influx of visitors. There are ways to deal with this but the current draft amendment will create more problems than it solves.

Sincerely,

James Mayson
Federal

Response to Byron Shire Council's proposal for a 90 day limit on Short Term Rental properties

This document provides my feedback to the Council on the proposal to limit some areas in Byron Shire to maximum 90 days short term rental.

In short I do not agree with the proposal.

My key reasons for objecting to the proposal are as follows:

1. The change will impact the local economy negatively.
 - a. It will reduce the earnings of supporting businesses who rely on short term housing occupancy rates i.e. cleaners, laundry services, garbage bin managers, real estate agents, gardeners.
 - b. It will reduce the income from water rates/usage, power usage for organisations providing these services.
 - c. It will reduce the income for all local businesses due to the reduction of tourists visiting the area if unable to find accommodation
 - d. It will reduce the income of the rental property owner, running a legitimate business just like any hotel or motel in the area.

**** Note:** modelling can be done for the dollar impacts here .. however limiting rental to 90 days guarantees a maximum 25% occupancy per annum .. and I expect most places run at between 30 and 50%+ occupancy today)

2. The change will not contribute to housing availability or the erosion of housing supply. Having a property available for 90 days a year does not necessarily make it available for the other 175 days ! It will sit empty. Housing supply will not necessarily erode, because short term property rentals will only survive if there is demand. As demand reduces with more properties becoming available then the growth will slow.

3. The change will increase costs for visiting tourists ... eventually impacting the number of tourists to the region .. tourism being the largest revenue source for local business and the council itself. Costs will increase because the cost per person per night on your average short term rental property is significantly less than a motel or hotel. This cost differential is the main reason short term rentals are so popular ! In addition, if rental properties are only available 90 days a year when they are currently available more often .. then the tariffs will need to increase. Finally, as an unintended consequence, if properties are only available for 90 days versus the current 365 days then there is the potential that the excess demand will be filled by having even more short term rental properties !

4. The proposal may very well significantly reduce the number of families visiting Byron. Short term rental properties provide the perfect arrangement for family holidays. Houses provide all the amenities a family needs for a good holiday for the kids. If properties are limited then families will be forced into less suitable motel suites or apartments at a much higher cost. The result could be less families coming to and enjoying Byron. And risk the area becoming more of a party town for couples, singles and backpackers.

5. The proposal will not achieve the stated aims of the Council:

(note; **Byron Council Stated Reasons**: prevent erosion of housing supply, manage impacts on amenity, safety for tourists)

 - a. Prevent erosion of housing supply ... see earlier points .. supply and demand will dictate this
 - b. Manage Impacts on Amenities ... amenities being say parks, beaches, toilets, reserves, shopping centres, AND Council has advised parking, noise and garbage are also of concern. Short term rental properties of their own accord do not impact amenities any more or less than what is driven by the number of visitors to the region (and I am assuming the Council objective is NOT to reduce the number of visitors to Byron). Properties are less densely populated per sq mtr of land, don't create ugly multi storey building complexes, provide yards, and pools etc. Parking has also been raised as an issue associated with short term rental

properties, however rental properties compared to say hotels have more car parking spaces available off street. And if illegal parking is a problem then there are fines for that. Personally, I have seen significant numbers of cars parked outside permanent rental properties where each bedroom is sub-let to people. Noise has been raised as a concern for properties and is occasionally an issue. Again there are regulations for this just like any home and police can be called and fines issued. Byron also has an organisation called HLO who manages and addresses these issues should they arise for property owners. As for the significance of the noise issue, I checked with a local real estate agent on property noise and discovered they had had on average one noise complaint per annum across some 60 properties. The impact of Short Term Rental Properties on Garbage escapes me. The amount of garbage produced is directly related to how many people are living or staying in the township .. not where they are staying. However, some holiday makers can produce a large quantity of garbage in a visit. To my knowledge this excess is addressed by the "Rubbish2Move" type organisations who will do an extra collection at any time. Regarding excess garbage, Council would be well advised to drive down Broken Head Road on garbage bin night and witness the nearly 1 km of bins lined up along the road and across the bus stop. This from a Council approved development !

- c. Safety for Tourists .. there is not enough information to inform on what this actually means. In case of fire risk ... short term rental properties are arguably easier to evacuate in case of a fire than large hotel complexes. Appropriate fire regulations are mandated by government just like all homes in Australia. And properties are usually located well away from the rowdy (sometimes dangerous) parts of town, most are located in good neighbourhoods where people look out for each other.

The current short term rental policies today allow for renting 365 days per year. And tourism is a 365 days per year business arguably critical to the Byron Bay economy. At this time I believe the 90 day limit is unique and not well tested or modelled for the results it might produce. Many areas of issue are

not just related to short term renting. And many issue areas can be addressed by regulating the actual rental properties.

Perhaps **IF** some changes are required to create some limitations, and other alternative solutions are not to be pursued, then a 180 day limit might be an appropriate trial step to test impact over say a 3 year trial.

Robert Orth

[REDACTED]

[REDACTED]

Feedback on Byron Shire Short Term Rental Accommodation Holiday Letting

Feedback

My wife and I own two holiday letting properties in Brunswick Heads at [REDACTED], both of which are managed by North Coast Lifestyle Properties. I do not support the restriction of Holiday Letting (STRA) to 90 days a year either on our properties or in Brunswick Heads as a whole.

In the Council's request for Feedback under "What are the new planning provisions?" it states that "365 days per year has been suggested at Wategos, Belongil and Shirley St" and that "the rest of the shire will be limited to 90 days per calendar year." but no justification has been provided as to why the 365 days per year have been "suggested" only for Wategos, Belongil and Shirley St or why a decision has apparently been already made that the rest of the shire shall be limited to 90 days.

The Council has to date has not provided information as required by the Government's Local Planning Direction 3.7 Reduction in Non Hosted Short Term Rental Accommodation Period, (LPD 3.7) i.e.

1. *"The reasons for changing the non-hosted short-term rental should be clearly articulated."*
- 2 *"There should be sound evidence for the proposed change, including the availability of short-term rental accommodation in the area (or parts of the area) in the 12 months preceding the proposal, relative to the amount of housing in the area, and trend data on the availability of short-term rental accommodation over the past 5 years."*
- 3 *"The impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including the social and economic impacts for the community in general, and impacted property owners specifically."*

I am also opposed to the Council intention "to amend the Byron LEP 2014 so as to implement local planning rules for short term rental accommodation rather than being subject to the planning rules of the SEPP" (i.e. the proposed State Environmental Planning Policy (Short Term Rental Accommodation) 2019). The LPD 3.7 does not require an amendment to the Byron LEP 2014, but only requests a planning proposal which would "identify or reduce the number of days that non-hosted short-term holiday accommodation may be carried out in part of its local government area." It is also interesting to note that the 12 Councils in NSW that have already been approved by the Government for reduction in their number of days per year of non-hosted STRA, have all been required to delete all clauses, definitions and schedules specifically related to STRA's from their Local Environmental Plans.

I don't believe that Byron Shire Council should be the only Council in NSW permitted to make such major changes to its LEP. Such changes are not likely to be compatible with the proposed Fair Trading Code of Conduct. The intention of this Code is to achieve "*a state-wide planning framework to achieve consistency and certainty across local planning controls.*" Based on the Council's inconsistent and disruptive behaviour towards STRA's over many years, I don't believe that the consistency and certainty that the Government is seeking, is likely to be achieved by the Council if it is permitted to make these major changes to its LEP. Also it would appear that such changes to the Byron LEP 2014 will also result in fees then being applied to STRA's by the Council as well as by Fair Trading.

Brunswick Heads

The Brunswick Heads' tourist demographic is very different from that of Byron Bay. and holiday accommodation alternatives to STRA's in Brunswick Heads are very limited compared with Byron Bay, as Brunswick Heads has very little commercial tourism accommodation. Since the late 1980's the town has not experienced rapid growth in its tourism numbers like Byron Bay has. Indeed over last 30 years the percentage of STRA's relative to permanent residential rentals in Brunswick Heads has declined. But Tourism is still the only significant driver of the Brunswick economy.

There is no evidence to suggest that STRA's in Brunswick Heads have resulted in any significant noise or party related behaviour. There are housing affordability challenges in Brunswick Heads, as in many coastal towns, but these are not caused by STRA's and these problems will not be resolved by limiting STRA's to 90 days p.a.

If my wife and my two STRA units are reduced to 90 days per year, we, like most other STRA owners in Brunswick Heads, whose properties are managed by local real estate agents, will cease holiday letting our properties, as this will no longer be financially viable. Most such STRA's are owned by people who do not live permanently in Brunswick Heads and use their holiday homes themselves and make them available for their family and friends. In 2015, when the Council was then also considering a 90 day per year limit on holiday letting, the Brunswick Heads Chamber conducted a survey of the local real estate agents' holiday property clients. Over 80% of them said that, if they were limited to only 90 days of holiday letting, they would consider either selling their properties or retaining them for holiday use by their own family, friends and relatives, rather than letting them out permanently.

The Brunswick Heads Chamber of Commerce 2019 Survey highlighted the town's dependence on tourism, pointing out that 'there are no other major economic drivers and none on the horizon. So businesses are very concerned about any changes that could negatively impact on their business.'

Recommendations

- 1) Retain the status quo of 365 day for non-hosted STRA's throughout Brunswick Heads.
- 2) That STRA in the Shire be required to comply with the proposed Fair Trading Code of Conduct regulations rather than for the Council seek to significantly amend the Byron LEP 2014.
- 3) That, as required by the Government, that the Council provide sound evidence to justify any proposals that are likely to impact on Brunswick Heads and the rest of the Shire, and make this information available to the public before seeking Government approval.

Background

I am a Member of Brunswick Heads Chamber of Commerce Holiday Letting Committee, was the Project Manager for Brunswick Heads Community Economic Transition Plan 2011-2016 and am a former Vice-President of the Holiday Letting Organisation Byron.

Conclusions

I am also most concerned that the introduction of a 90 day per year limit on non-hosted STRA's in Brunswick Heads will have dire consequences on our small businesses, employment and our local economy, with far reaching economic multiplier impacts. Brunswick Heads is very different from Byron Bay. Unfortunately much of the information provided by the Council has been generalised for the whole of the shire, when in fact most of this data applies to Byron Bay. The number of tourists visiting Byron Bay and their demographics are profoundly different from those visiting Brunswick Heads. Indeed the scale and demographic of tourist visitation in Brunswick Heads is actually not too distinctly different from many other parts of Coastal NSW. It makes no sense that this town should be treated differently from most of the rest of the regional coastal area of NSW. Brunswick Heads does not need to be collateral damage for policies and regulations that are being put in place to resolve issues mainly related to Byron Bay.

Robert Rosen



SUBMISSION TO BYRON COUNCIL REGARDING SHORT TERM RENTAL ACCOMMODATION

Sandra Hook

**1. OPTIONS PRESENTED**

I believe the options presented by Byron Shire Council (BSC) in this Community Engagement are LIMITED and too extreme. An option of either 90 days or 365 days does not represent the broader options available to BSC.

There is no discussion of other options including 120, 180, 240 days

The lack of choice and more flexible considerations promotes extreme views and promotes a lack of tolerance among the Byron community.

While BSC's Community Engagement program explores the views of residents and STRA owners only, it does not seek to engage or garner the views of holiday makers. Holiday makers contribute immeasurably to the economics of the Byron Shire community – spending money on retail, food, entertainment, consumer items and beyond. Byron is a global destination as a holiday destination and tourist mecca. Not taking into consideration the views of the 100's of 1000s who love, enjoy and support the Byron Shire is a failure of BSC's engagement program and will distort the policy debate.

2. HOME OWNER RIGHTS

As the owner of a property on [REDACTED] Suffolk Park I feel my rights are being diluted and have reached second-class status. We carefully considered and factored the Short-Term Rental Market when purchasing this property.

We live in Sydney but I have aging parents (84 and 94 years old) nearby and we purchased the property in order to be able to spend more time visiting with my parents and providing them with a place to stay with us nearby as they are no longer able to travel distances.

In the great tradition of holiday home ownership, this house was bought to share with our friends and family. The reality is, if we are limited to only 90 days on Airbnb then it will mean that our place stays empty for many weeks/months each year as we want to ensure it is free for us to come stay, to visit with my parents and have them come to stay. We wouldn't accept long-term renters and any restriction means we wouldn't be able to use our place when we want.

Therefore, limiting STRA to just 90 days would simply mean reducing the economic benefits of STRA, with less people visiting, less people putting money into the local community, and reducing employment opportunities to the local community as well.

We also feel significantly disadvantaged as we do not vote in the BSC and like many other owners of holiday properties, our voice is not heard via the electoral system although we make an equal or greater economic contribution to the local community.

3. CARE FOR THE COMMUNITY

Being an owner of a property available as STRA is NOT incompatible with concern for our community. Although we are part-time residents of Byron Shire, we take a deep interest in the local community and area. We chose this area (over other nearby locations such as the Gold Coast) as we appreciate the sensibility and shared concern for community and the environment. We hope to make this area our home when we retire and participating in the STR market assists in paying the mortgage, while we economically contribute to the community.

We bought our place as we love the area and we want to protect what we love. We are keen to find a middle ground that protects our rights as home owners and respects and supports the community.

As responsible STRA participants we insist that our guests are respectful of our neighbours, we set sensible curfews and do NOT tolerate parties of any kind. As a small property (2 bedroom), our home is mostly rented by families enjoying the space and privacy that a single dwelling affords at a price that is more competitive than hotel accommodation.

4. ECONOMIC BENEFIT

So far there has been little discussion on the Economic Benefit derived from STRA.

Home sharing is an important economic tool for everyday people that should be recognized and fairly regulated by governments.

Analysis around the world by economists consistently show the positive economic impact and number of jobs created by STRA. Such studies also present a broader range of positive impacts including a broadening of where guests spend their money (not just in the tourist high street), and that the income earned by resident hosts and local businesses strengthens communities and economies.

As a regional economy, residents of BSC do not have as many employment options as can be found in capital cities. STRA provides many 1000s and 1000s of varied employment opportunities as well as providing much needed fulltime, part time and flexible employment.

In our instance, 30-40% of our rental income goes directly back into the local community. The rest contributes to paying the mortgage.

We regularly (weekly or more often) employ:
- cleaners

- gardeners
- laundry and linen service
- maintenance people
- a BBQ cleaner
- a Pool maintenance service
- Rubbish bin collector

Over the last 3 months we have paid for the services of:

- Electrician
- Gas delivery
- Plumber
- Window cleaners
- local handyman / builder
- locksmith
- Pest control
- Fly screen maintenance
- Electric blind maintenance
- Electric gate maintenance

We inject cash into the local retail community by frequently updating and locally purchasing:

- white goods,
- appliances
- lighting
- garden plants and horticultural items
- electronic goods
- furnishings
- household supplies

In addition:

We pay rates.

We pay land tax.

We pay for all local services – telco, electricity, gas, water

5. ADDRESSING NEW TECHNOLOGY AND NEW ECONOMIC MODELS

A significant share of Airbnb / HomeStay / Booking.com, Aabode etc hosts use these contemporary platforms to engage in economic activity that existed long before these platforms did – that is, dwellings in the area have always been used as serviced apartments, B&Bs or holiday rentals. Yes, the technology platforms are new but as a tourist destination, the activity is the same. Tourism is one of the fastest economic growth areas globally and vitally important to Australia's economy. BSC must find ways to adapt to this global growth trend and benefit from it rather than seek to limit it.

Restricting STRA is punitive, limiting and lacks creativity.

BSC must find a way to harness the benefits of new technology platforms and new economic models or it will be on the wrong side of history.

BSC must consider creative ways of revenue generation from STRA to underpin and support the beleaguered council resources and help improve infrastructure.

Could BSC consider charging a fee to STRA owners in accord with the property's availability – 90 days (\$900), 120 (\$1200), 180 (\$1800), 240 (\$2400) , 365 (\$3650) with monies to be used to provide community resources / infrastructure.

Could BSC consider a room/bed / occupancy tax collected by the new technology platforms and distributed automatically to BSC?

Could BSC strike a deal (as have other councils / cities around the world) with the various platforms to collect and deliver taxes from its hosts?

Could BSC find other ways to address long term rental accommodation such as new housing models, land release, better commuting services

6. COMPLIANCE AND REGULATION

It is fair to expect STRA to comply with regulations that keeps the local community and guests healthy and safe.

Could BSC work with STRA tech platforms to ban certain illegal listings, and create an online system that automatically registers hosts with the city, among other things.

The absolute majority of STRA owners would desire to be good corporate citizens , restricting rental to 90 days will in no way benefit the broader BS community although it may win a few votes.

What is called for is well considered policy development that contemplates the economic benefits, the global tech trends, the growing visitor economy and marries it with community and environment benefits.

IN SUMMARY

We DO NOT support the restriction of STRA to 90 days. If the only option is 365, then this is what we support although other more creative options should be interrogated more fully.

26 January 2020 - Tim Hochgrebe - [REDACTED]

Submission in response to Byron Bay Draft planning controls for short-term rental accommodation - on exhibition until 31 Jan 2020

At present, STRA is regulated differently (or mostly not at all) in different local government area (LGAs) across NSW.

It has to be understood that different councils also have different requirements. Small regional communities might be happy to have visitors come to their area and contribute to their economy in a responsible fashion and have no issues with buck's parties, weddings and schoolies.

However, some communities with a high influx of visitors on an ongoing basis might need a very different approach. Especially if there is already a thriving, licensed tourism accommodation industry present.

Byron Bay is a great example where it is going wrong. Just like other popular places such as Margaret River in Western Australia, Tasmania, Amsterdam, Venice, Barcelona and New York, Byron Bay struggles with a partially unlicensed tourism accommodation industry.

Byron Bay actually already offers a variety of licensed accommodation styles ranging from luxury resorts to hotels, motels, serviced apartments, backpackers and B&Bs. The licensing of those business is challenging for the proprietors. They comply with fire safety regulations, they pay commercial council rates and contribute to the infrastructure maintenance and upgrade through their licensing.

The Byron Shire Council has a DCP and LEP regulating the accommodation industry. It is clearly stated what requirements are needed, business owners go through the process and there are and should be areas where things are allowed and other things are not allowed. Nobody wants a holiday apartment block in a purely residential zone - that is not why people buy a house in a residential zone.

With the advance of ease of listing any kind of building (!! garage, sheds etc) for tourist accommodation purposes this has completely gotten out of hand in Byron Bay. Dwellings built to accommodate a family now host twice the number of people it was intended for most of the time, putting pressure on existing infrastructure such as drinking water and waste water facilities. In addition those houses do not offer adequate parking for the extra cars.

Houses are being purchased and sold with the sole purpose of letting them out as holiday letting places, which inflates the purchase prices to a level that no one can afford to just live in them.

Importantly, the rental pool is shrinking and existing rentable places are at a premium. Ironically, some people that do rent, sub-let their place and move in with relatives when they receive a booking.

Backpackers, who are particularly vulnerable being from overseas, have been charged \$500 per week in a shared room in a house!

The houses built with a DA for a 'residence' should be mainly used for this purpose.

NSW Land and Environment Court has analysed case law on the definitions of "residential

accommodation", "residential building", "residential flat building", "domicile" and "flats", and concluded that there must be "an element of permanence or residence for a considerable time, or having the character of a person's settled or usual abode" in order to constitute "residential buildings"

Neighbours of those residences used for unlicensed holiday accommodation - who thought they had moved into a home in a residential street - suffer from sleep deprivation and stress as there is generally no host on-site. Council can't do anything as it is a residential house not a business, police might not always be able deal with the noise issues long term. All they can do is visit ask the visitors to turn it down. However, the next day with new people staying, the neighbours have to go through the whole process again. Hearing the people arrive, music starts but it is still early and then wait until it is past 10 pm.....

Byron Bay tried self-regulation by the Holiday Letting Organisation (HLO) who funded a Holiday Letting hotline. The idea was that a host would get three strikes and they could no longer operate. It doesn't work. The hotline recommends anybody who complains in the middle of the night to call council and report. Council, the next day, says to call the hotline or the police. The police has better things to do as their hands are tied anyway: every time it is a different person causing the noise, so no one can be held responsible. Neighbours give up and sometimes try to confront the perpetrators, resulting often in verbal abuse and revenge vomiting, vandalism and littering by the tourists who feel entitled to have the time of their life. The next week those poor people seize up when they hear the roller bags coming down the drive way next door.

The proposed Code of Conduct for STRA sounds admirable, but to have an exclusion list for hosts and guests is not realistic.

As owners of licensed accommodation, we have seen a significant decline in viability of our business. Before we even open our doors we have a long lists of costs to keep our license current and up to date. Unlicensed premises are able to charge a much lower fee without having all those costs and there is no GST they need to pay despite offering exactly the same service we do.

Surely, the government is missing out on an enormous amount of GST they can't collect.

The number of people staying has not increased, instead people expect to pay less. Our prices are back at what they were 15 years ago! We can't afford staff anymore, we had to let them go.

Many of our colleagues have left the industry, their business being considered worthless. Why get a DA if you will be restricted by the number of people that can stay, have to provide off road car parking, disabled access and pay extra to top it off?

As the unlicensed operators do not pay any contributions, do not have to pay for fire inspections once a year or increased council rates it is impossible to compete with the low prices these rogue operators can charge.

AirBnB uses the 'average' of incomes to show how little money is made by individuals, but they have not published the median or spread of money made. If one person can have 30 odd places and uses so-called 'super hosts' to manage them, you can't tell me that there is no money to be made.

Of the many, many listings in the Byron Shire there are 1331 listings for whole

houses/apartment with only 359 landlords, which means that those hosts are not just your regular mum and dad trying to make an extra buck they are full blown commercial operators.

To suggest that these operators can operate 365 days a year or even 90 days is a ridiculous proposal. The hosts/landlords know it is worth their while, why don't they go through the process of obtaining a license. They had their go at seeing if it works for them financially. They could even do a business plan!

Even if Byron Bay would get a 90 day limit it would be not workable for our community. This would still be 45 weekends. This would still be the whole month of January and then 2 more months.

And what does it mean 90 days? Can the property be available for 90 days in total or does it mean 90 nights booked? What if there is a cancellation of 4 days, can that place be re-booked for another 4 days at another time? Can they keep the cancellation fee? How will this be monitored? What about direct bookings? How would this work? How can you expect the on-line booking platforms to keep track on this and be honest about it if they make a 20% commission on each booking.

This does not provide any clarity at all!

It is understandable though as politicians - for example the Deputy Premier - have their own property listed as a holiday home as well.

The proposed framework states that un-hosted bookings of 21 or more consecutive days will not have to comply with the applicable day thresholds.

If a family comes for a 3 week holiday and rents a house, the owner can do two lots over summer and still have 90 days for the rest of the year?

This certainly offers a loophole. Someone can just rent out their property to someone else for 6 months and they can sub-let it on an overnight basis. How is this going to be policed?

The fact that unlicensed tourism accommodation is put under the banner short-term rental is terribly confusing.

The overall proposal seems to have the attitude of "It is all too hard to police, so we are just going to allow it and pretend there is a system in place". Meanwhile, our town is being taken over and no locals will be left. No staff available for restaurants, schools, the hospital, etc because they can't afford to live here.

It is a fact that a regulated industry is being de-regulated, all for the short-term benefit of realistically only a few and the on-line booking agents. This is no longer about home sharing or someone letting out their holiday home on a few occasions a year.

SUMMARY

- The proposal is that a regulated industry has been de-regulated and needs to be re-regulated, but is ridiculously unfair compared to the existing licensed businesses in that same industry
- Unlicensed tourist accommodation providers are not paying GST even though some of them supply overnight accommodation, breakfast, room service just like hotels, motels and B&Bs. They are not paying commercial rates and are not subject to Council inspections for fire safety and compliance

- The proposed Code of Conduct is not a realistic approach. It can not be policed and implemented. The process to bring awareness to hosts and guests about their unruly behaviour and solve the problem of loss of amenity to the neighbours that way is flawed thinking.
- Owners of a property responsible to the noise/interruption to daily life of their neighbours should be held responsible by law when rented out to tourist or visitors. That way there is clarity for the authorities, neighbours, hosts and visitors.
- If people/hosts want to rent out their homes/properties on a commercial basis to tourists or visitors, ie more than twice, thrice a year, they need a DA and contribute to the community as has been decided on by the local council. If local councils feel there is no need for a DA than let them do that!
- Our town of Byron Bay and surrounds and our business are severely negatively impacted by unlicensed operators. A maximum 90 night limit should apply to Byron Bay's unlicensed tourism accommodation and ONLY for host present situations of 1 room not more - else just get a DA, but 60 days (or less!) would be much more preferable.
- We are not confident that the proposed reforms are realistic.



SHORT-TERM RENTAL ACCOMMODATION (HOLIDAY LETTING)

Submission to Byron Shire draft planning controls for short-term rental accommodation



January 2020

Contact:

taa@tourismaccommodation.com.au

1. INTRODUCTION

Tourism Accommodation Australia (TAA) NSW, a division of Australian Hotels Association NSW, welcomes the opportunity to make a submission to Byron Shire's draft planning controls for short-term rental accommodation (STRA).

TAA is the peak body representing the needs and interests of the major hotels, motels, and serviced apartments in Australia's accommodation sector. We accept genuine hosted STRA. This category diversifies the product offering, increases competition in a commercial environment, encourages innovation, and leads to growth throughout the accommodation sector. TAA is primarily concerned with commercial operators using online platforms to offer un-hosted residential properties year-round for short-term accommodation, competing directly with hotels, motels, and serviced apartments but operating outside the existing regulatory framework.

TAA welcomes the opportunity to provide feedback on the draft planning controls for STRA in Byron Shire. We support the proposed definitions by Byron Shire of hosted and non-hosted STRA and argue a cap of 90 days per year should apply to the entirety of Byron Shire. We offer suggestions which expand on the proposed range of requirements which would be required for hosted and non-hosted to be allowed as exempt developments.

2. DEFINITIONS AND CAP

TAA welcomes Byron Shire's proposed definition of hosted STRA and non-hosted STRA. Inherent in distinguishing between hosted and non-hosted STRA is determining the threshold at which short-term letting becomes a commercial activity rather than an occasional activity providing supplemental income. TAA believes that hosted STRA – as inferred by the widely used umbrella term "home-sharing" – can by definition only occur in a home (primary residence). Where STRA is occurring in a property that is not functioning as a primary residence, that property is offering commercial-residential (non-hosted) STRA.

The key consideration is defining when a property is not functioning as a primary residence. Clearly, an investment property is not a landlord's primary residence. Similarly, a vacant property of an absentee owner is not functioning as a primary residence. Landlords and investors do not "share" empty investment properties – regardless of the length of the agreement, a transaction occurs whereby permission for another individual to temporarily occupy the dwelling is granted in exchange for payment. To label such an arrangement as "home-sharing" is duplicitous and ignores the commercial basis of a landlord or absentee owner offering this accommodation.

TAA's definition of commercial-residential accommodation consists of two separate measures. Firstly, a single host with multiple listings across different addresses indicates a commercial operation, as only one of those properties could satisfactorily be the host's primary residence. Secondly, and as stated in Airbnb's Policy Tool Chest, 'at a certain point ... [short-term letting] becomes a more commercial activity requiring additional regulation.'¹ Short-term letting an entire house or apartment beyond an annual threshold of days indicates a commercial activity. Although TAA would support a lower threshold, the *New South Wales Residential Tenancies Act 2010* provides an existing distinction of 3 months. TAA has therefore incorporated a threshold of 90 days per year into our definition of

¹ Airbnb, 2016, *Airbnb Policy Tool Chest*, p 7.

commercial-residential accommodation and supports a cap of 90 days as the maximum number that a dwelling can be used for non-hosted STRA for the entire Byron Shire.

3. EXEMPT DEVELOPMENT – REQUIREMENTS

TAA welcomes allowing hosted and non-hosted STRA as exempt development provided they meet a range of requirements as proposed by Byron Shire. TAA suggests that the range of requirements include:

- Nature of the letting; shared or whole property;
- Name of premise host and/or letting agent;
- Address of listed property and facilities i.e. pool, gym etc.;
- Number of days the premise is available and booked for STRA purposes;
- Type of premise, whether that be house or apartment;
- Fire and safety compliance certificate;
- Insurances held for public liability etc.;
- Tax File Number of host;
- Emergency contact details of host;
- The Strata Scheme number to be included if it is a strata property and whether the STRA complies with the by-laws; and
- Confirmation that the host or property is not listed on any state exclusion register.

TAA suggests that this data be captured by Byron Shire. Not only will the collection of data from STRA's premises' lead to a better understanding of the value and size of the industry but it will also assist in forecasting and planning. TAA believes that the integration of data collection is of paramount value to the tourism sector but also to LGAs and strata groups as well as the Australian Tax Office to ensure that any profit generated by a premise is noted as an additional income stream for hosts as with traditional investment property owners who rent or lease their premises.

4. CONCLUSION

TAA commends Byron Shire's proposed definitions of hosted and non-hosted STRA. Whilst commercial-residential accommodation assists in meeting peak seasonal tourism demand (fluid accommodation inventory) in regional NSW, it has considerable impacts on hotel investment, amenity and housing affordability in metropolitan NSW. As such, non-hosted STRA needs to be capped at 90 days per year in Byron Shire.

Warmest regards,



Michael Johnson
Tourism Accommodation Australia CEO



BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.12 - ATTACHMENT 2

From: [Julian Moore](#)
To: [council](#)
Subject: Draft planning controls for short-term rental accommodation
Date: Thursday, 30 January 2020 9:10:22 PM
Attachments: [image001.png](#)

Dear Sir,

I wish to express our support for this initiative and the limitation of the duration of non-hosted short term rentals. Without this regulation the STRA industry has the capacity to undermine the viability of businesses who are providing high employment for the community are meeting strict regulatory requirements and sustain and enhance the diversity of the community.

Your consideration of these points in your decision making are greatly appreciated

Kind Regards,



Julian Moore
General Manager
Byron at Byron, a Crystalbrook Collection Resort
77-97 Broken Head Road Byron Bay, NSW 2481,
Australia



From: [lirhazel.evans](#)
To: [council; submissions](#)
Subject: Short Term Rental Accommodation (Holiday Letting) - Draft planning controls for short-term rental accommodation
Date: Thursday, 30 January 2020 4:35:46 PM
Attachments: [Screen Shot 2020-01-30 at 4.31.26 pm.png](#)
[Screen Shot 2018-09-20 at 6.10.28 pm.png](#)

{I had trouble submitting online via the Council website and have emailed the details (following) as instructed by the BSC receptionist.}

I have been a rental resident to the Byron Shire for 20 years after being born and bred in neighbouring shires (Lismore and Tweed respectively).
 I've been on the frontline of the problematic dynamic of seeking and attaining long term rental accommodation in the Byron Shire; the difficulties, blocks and challenges increasing exponentially over this time. I've been homeless twice (living in my car for months between homes) moving further and further to the outer fringes of the shire since early 2000 where it was more affordable and easier to find a home. These perimeters don't exist anymore.

Doing the math on constant re-homing the average move has been every 12months or less. This is not a clear picture though as in one year alone I moved 4 times. I have shared accommodation on the occasion whereby self-contained Accom was not available within the deadline between rehousing but mostly I have held sole tenancies. In the last decade I've watched Airbnb grow to dominate the market of self-contained Accom simultaneous to impacting the general market of family residences.

I, for one, see the real and negative impact of Airbnb in my neighbourhood whereby the minimal available rental abodes previously listed for permanent leases have been shifted into the holiday rental market. Many times I have directly experienced going through the application process for an advertised rental only to have the prospective landlord change path deciding Airbnb is financially "more viable/advantageous" revenue. As a distributor for the Echo in the Northern districts of the shire for 5years I see Airbnb (along with non-commercially listed, privately owned holiday homes) steadily encroach on the dwindling rental market.

I admit, I resent the Airbnb neighbour whether they are quiet and respectful, or arrogant, loud and rowdy because they are directly impacting on my ability to find a permanent (or even a short term) tenancy in MY home ground.

I've watched many friends move to another area where rentals are not only more affordable but also easier logistically to acquire and more fitting to their needs as rental home-makers and contributors to their local economy both financially, culturally and esoterically.

The proposal that these holiday listings should be limited to 90days/year is a first step in the right direction but, I believe, will not have a positive outcome for permanent tenants as this only translates to a 9 month lease threshold for local tenancies. 30 days would have a much more positive impact on the local, long-term rental market.

Maybe this would impact on the overall decision of the home-owner to not holiday let at all and this would be a positive for the local renter... IF the landlord does not intend to pass on the loss (from holiday letting income) to the leaseholder. Or, it may translate with the landlord endeavouring to make up for their 9 month "loss of income" by higher impact holiday rentals compressed into the peak times and simply not renting out at all during the down time.

It's important to note, the reviewing (and payment) system engaged with Airbnb holiday letting does make for a much easier business transaction (thus transition from customer to customer) which is an advantage to the property owner. Permanent tenancies involves time-hungry bureaucracy on varying levels: Real Estate involvement and decision-making, abiding to and upholding tribunal laws, complicated logistics of moving-on lease-ends, inviting new and reviewing applications, and other unpredictable elements of the permanent rental market.

I would also like Real Estate's reviewed in their application processing for local tenancies as well as limited in their ability to facilitate holiday letting.

Kind Regards,
Lirhazel Evans



lirhazel evans



Submission to Byron Shire Council re Short Term Rental Accommodation (STRA).

Submitted by Peter Gibson and Alison Roots on January 31 2020.

1. We live at [REDACTED] We have owned our property since 1979.
2. We have an approved B&B on our property.
3. We have taken all appropriate steps to obtain all the appropriate approvals to ensure we provide accommodation to people on a short term basis and that the accommodation provided meets all building codes and fire safety codes, and that it is fully insured against a range of issues to safeguard our paying guests and their visitors. In order to achieve this we have paid a lot of money to meet these appropriately high requirements to ensure public safety of our guests. These payments have been made to the Byron Shire Council, to builders, plumbers, other tradespeople, certifiers, insurance companies and many others.
4. Why should other people, who own houses with "residential only" zonings, be allowed to compete on the same levels as us to provide accommodation to members of the public without the same level of safe construction, and design, and fire safety provisions, and clean drinking water provision, and insurance provision, etc. This is not only potentially unsafe for guests, but it is totally unfair to approved accommodation providers who have done all the right things to obtain their formal approval to provide accommodation.
5. It must be acknowledged that any commercial use of existing residences as STRAs is in direct breach of existing zoning laws, which makes them ILLEGAL. This cannot be just ignored in this debate.
6. Our other concern is the clear impact that uncontrolled STRA is having on the structure and sustainability of communities. The effects of the current situation of uncontrolled STRAs includes:
 - a. the unnaturally high costs of housing,
 - b. the loss of normal available housing stock for normal residents,
 - c. which forces normal people to travel long distances to commute to work, even in rural areas,
 - d. the loss of privacy and amenity for normal residents who are faced with very regular "parties" in neighbouring houses used by STRA,
 - e. significant destruction of normal communities.
7. We recognise that tourism is an important component of our economy and must be encouraged up to the point where communities start to seriously suffer and are no longer sustainable. The current level of STRAs has certainly gone well beyond this.
8. The original concept for STRAs that emerged was for normal legal residents to try to make some additional income to supplement their total income by renting out a room or extra flat in their owner occupied dwelling. This level of STRA could be facilitated, only if it is limited to a maximum of 90 days per year, on the assumption that it is properly registered through Council, is assessed as meeting proper building codes, fire safety codes, meets healthy water standards and is properly insured and is part of a security reporting system during periods of rental to guests. NO PUBLIC POLICY SHOULD COMPROMISE THE STANDARDS OF SAFETY FOR THE GENERAL PUBLIC.
9. We strongly recommend making all other non-resident occupied STRAs illegal as they have done nothing to comply with any codes of any nature and are therefore illegal players in a market in which many other approved accommodation suppliers have done all the right

things, as required by the law, by the local council and by other authorities. They are potentially a safety and health threat to paying guests with no oversight and no authority to act. This is a shameful situation in a modern sophisticated country like Australia. There is no doubt that many of the policies that govern the STRA sector will end up being determined by the Coroners Court, with much heartache.

10. If current non-occupied operators want to continue in the STRA industry, a process for them to meet minimum acceptable standards for building fire safety, water safety and other appropriate operational measures should be provided. Local Councils should also be able to assess applications to ensure they are located in acceptable zones within their Shires. The current situation is out of control and must be better regulated. And yes, many owner/operators should be shut down as unsuitable for the viable future of the local communities. Just remember that these STRA dwellings are currently illegal and the income from them is often not even reported to the Australian Tax Office. They should not be rewarded for their illegal activities. In making determination of the suitability of allowing these STRAs to continue, ***genuine*** negative impacts on the local economy should be taken into account and maybe a phasing in/phasing out process could be considered if appropriate.
11. Councils and governments have allowed the current situation to get out of control, and they must be the ones to pull it back into line, no matter the reasonable costs.
12. Congratulations to BSC for leading in this area.
13. And finally, we have been associated with the Brunswick Heads Chamber of Commerce and the Byron Bay Chamber of Commerce for the last few years. Their respective stated public opinions are fraught with vested interests and questionable statistics which should be openly challenged by BSC in considering the next steps in setting policies in this area.

Submitted by Peter Gibson and Alison Roots

From: [Alan Heathcote](#)
To: [council](#)
Subject: Draft Short Term Holiday Letting Policy
Date: Thursday, 30 January 2020 5:19:15 PM

To whom it may concern,

Please accept this as my submission to the BSC Draft Short Term Holiday Letting policy on exhibition.

I am in agreement with the draft policy except for the omission of an approved Tourism Holiday strip on Alcorn St Suffolk Park.

Many houses on the beachfront have been holiday let for many years (no different from Belongil Beach holiday letting) and it is generally accepted as a holiday let zone by people living in Suffolk Park. Many people have invested in holiday homes there under the current rules and, to them, the proposed outcome of the draft STHL policy is akin to backzoning their land.

I live in house [REDACTED] and even though I don't holiday let, I would like to see houses here retain the right to carry out unlimited holiday letting if they choose.

Regards

Alan Heathcote

[REDACTED]
[REDACTED]
[REDACTED]