

From: [Jodie Lunn](#)
To: [submissions](#)
Cc: [Jodie](#); [Terryble](#)
Subject: 168 Tandy's Lane Submission for DA 10.2019.343.1 Parcel 213810
Date: Monday, 22 July 2019 5:02:23 PM
Attachments: [168 Tandy's Lane Submission for DA 10.2019.343.1 Parcel 213810.pdf](#)

To Whom It May Concern,

Please find attached our objection to DA 10.2019.343.1 Parcel 213810 attached.

We trust that we have satisfied all requirements for submission and look forward to a written response.

Yours sincerely,

Jodie Lunn and Terry Davis



22 July 2019

Byron Shire Council
Po Box 219
Mullumbimby, NSW 2482

To Whom It May Concern,

***Objection to DA Submission:
'River Hawk Ranch'
150 Tandys Lane Brunswick Heads, NSW
Application No: 10.2019.0343.1***

We wish to raise a *strong objection* to the proposed development as we believe the DA submission has many material deficiencies and does not comply with the existing regulations applying to this type of development. Specifically, that an existing DA (10.2016.818.2) precludes any development of tourist accommodation and that the applicant's primary source of income is tourist accommodation and not primary production, as explained further in this submission.

We were made aware by several parties earlier this year that the applicants intended leaving the property, possibly moving back to Byron Bay. At the time, the property was put on the market through a local Real Estate agent. We question whether the applicants are committed to preserving the unique nature of this area or whether their intention is to develop it as another location for their primary source of income, which is large scale tourist accommodation.

Had there been prior consultation or notification of this intended development, which represents a threat to the community, the developer would have had ample opportunity to see the near universal rejection by the local residents. It is unfortunate that we have been put in a position where an objection to the submitted DA is our only chance to defend our community and pristine environment.

1. This is not 'small scale' development and is non-complying

The proposed development of the site branded 'River Hawk Ranch' is not small scale and is certainly not secondary to any agricultural activities undertaken at the property. We are the nearest and one of the most affected neighbours and we have never seen any evidence of material agricultural pursuits other than a worker using a ride-on mower.

There has been widespread commentary on social media by the applicants - who are specialists in the field of accommodation, also owning 'The Atlantic' in Byron Bay Instagram: @atlanticbyronbay - that new accommodation is 'coming soon'. We are advised that if successful, further applications will be made for an additional 8 units to be built. The property already houses 2 large dwellings: 2 family homes each with a minimum of 4 bedrooms, one of which was recently approved as Dual Occupancy on the basis that it is a 'Manager's Residence'. The DA enabling the existing dual dwellings specifically precludes the applicants from operating tourist accommodation.

We also understand that a third building approved as an Art Studio is being used as tourist accommodation. Thus, we understand that the applicants already have 9 bedrooms on the site, making it highly likely for large group bookings to be made such as weddings and off-site events. Adding another 4 self-contained cabins does not represent small scale tourism. Nor is it required to provide 'Farm Stay' accommodation for a non-existent primary production enterprise.

We note the applicants have been silent in giving any undertakings that they will not increase the number of tourist rooms over time to 12.

It is highly unlikely that the applicants will be the people actively doing the activities of cleaning, washing linen and other support services as required for a 'Farm Stay' and hence the traffic report is highly misleading as to the increase in traffic.

A local real estate agent advised us the property has recently been on the market, which raises concerns about the applicant's commitment to the area and community, or indeed, some potential new owner who is being sold on the concept of DA approval of a significant number of new rental dwellings.

A number of significant commercial events have already been hosted on the property, some of which have been extremely noisy. We note that no undertakings have been made by the applicants that there will be no further commercial events including weddings in the future.

2. Non-complying ATO status as a 'primary producer'

Planting some jelly bush trees for production of minor amounts of honey and perhaps planting some exotic trees does not remotely comply with the Australian Tax Office definition of undertaking 'primary production'.

We estimate the annual income generated by the accommodation would be up to 8 times greater than the potential money earned from the proposed primary production. Hence the accommodation development is the primary and not the secondary source of income. The applicants are a major player in the Byron Bay accommodation business running the very successful 'The Atlantic' in Byron Bay.

We note the applicants have not provided tax returns to validate their primary producer status or advised in the development proposal that they have Australian Tax Office clearance that the development complies with primary producer legislation.

3. Potential severe environmental degradation of the Brunswick River

The applicant's property directly adjoins a pristine and little used tributary of the Brunswick River which is free of industry and pollution and is zoned 7a-'Wetlands Zone'. This area of the river is lined with mangroves providing a rich nursery for birds, crabs, small fish breeding and turtles. This ecosystem will be under extreme threat from increased activity by tourists who have no or little care for the area or proper understanding of the sensitivity of the local river and riparian environment.

Facilities, including a composting toilet have already been built by the river, and branded 'River Hawk Camp' and the site has already been used for commercial activities. The positioning of the river access and 'River Hawk Camp' on social media would suggest that this area is intended to be made available to multiple tourists on a daily basis, which would have a significant impact on the coastal wetlands area which is also a green zone. There will be further degradation of the river banks from launching of canoes and motor boats and the general increase in people movements. Not to mention the risk of pollution and damage to the waterway and surrounds.

The applicants have provided no undertakings that their paying guests will not have access to the river and the existing 'River Hawk Camp' facilities. Quite the opposite. The applicants have been heavily building the brand 'River Hawk Ranch' (Instagram @riverhawkranch) over several years, almost daily 'stories' promoting the direct river access from the property. Combined with social media references to upcoming river-side cabins and canoes via 'The Atlantic' social media which has been broadcast to over 35, 000 followers of the two brands via Instagram alone. (We have not found any similar reference to honey production.) This will result in the possibility of small motor boats stirring up the river floor and completely destroying the breeding areas given the river is very shallow.

4. Guest safety

Unfortunately wild dogs frequent the area of the property, often crossing the river from the National Park. Residents over the years have lost pets to wild feral dog attacks and a number of wild dogs have had to be shot or poisoned.

It would be a tragedy if a small child was to be attacked because paying guests had not been made aware of the dangers of wild dogs, or bitten by a brown snake which are prevalent

We note there is no undertaking to fence the river with swimming pool type fencing to stop small children from wandering into the river which is quite dark and tidal.

We do not allow children unsupervised in this area for reason of the feral dogs, ticks, snakes and potentially dangerous water conditions.

5. Impact of increased traffic

Tandy's Lane is a winding, narrow and unlit no-through roadway full of large and small potholes. It is already a difficult and dangerous road to navigate as a resident familiar with the conditions. Adding commercial services and tourist traffic to the road represents an 'accident waiting to happen' on a road that is already not coping with local traffic.

The traffic impact study is misleading in that it does not take into consideration the significant increase in traffic from laundry vans, cleaners, home delivery of food and maintenance contractors. Nor does it consider the increased use of the potential tourist accommodation already available at the site.

We estimate there will be at least 10 traffic movements per accommodation unit per day as the remote setting means there are no cafes, restaurants or shops within easy walking distance. A car is required for all access, unless via the river and the associated concerns raised at point 4. above.

This will have a direct impact on the safety of and quiet enjoyment by the local community.

There is also concern that any addition to the number of cross overs - which we understand are already far more than normally allowed for this type of zoning - will only go to increase the risk to small children of the community who use the area as a play area.

We would seek the number of cross overs reduced rather than increased and certainly the proposed location should be moved at the very least to one of the existing cross overs.

Any new vehicle paths on the property should be bitumen as in strong south easterlies the dust from the paths already blows over to other owner's properties.

6. Tandy's Lane road poor surface, lighting and maintenance

Tandy's Lane is already one of the most difficult roads in the shire for the Byron Council to manage the volume and size of the pot holes and is in a constant state of disrepair. The significant increase in traffic if this proposal goes ahead, will only go to exacerbate the problems causing more vehicle damage and lead to a significant increase in the ongoing road repair costs to the council.

We note there is no cost undertaking from the applicants to upgrade and maintain Tandy's Lane road surface. Proper lighting of Tandy's Lane would be required to avoid accidents by inexperienced drivers at night time.

7. Local Community

We have been contacted by many of our community neighbours, many of whom are elderly or who have lived in the community for a very long time and are quite distressed over the complete lack of consultation and that the proposal at a build cost of approximately \$2000 per m2 (plus landscaping), is certainly not premium accommodation and is therefore totally inconsistent with the community values and surrounding properties.

7. Privacy

We note that the applicants have not made any undertakings to provide appropriate screening of the units or riverside area such that neighbours do not have to look onto tourist activities and can continue to enjoy an uninterrupted rural/green landscape and coastal views to Byron Bay.

Conclusion

In conclusion, the DA submission is deficient in nearly every area. It is clearly the **next** step in a significant tourist development, akin to the model chosen by the applicants to develop 'The Atlantic' in Byron Bay.

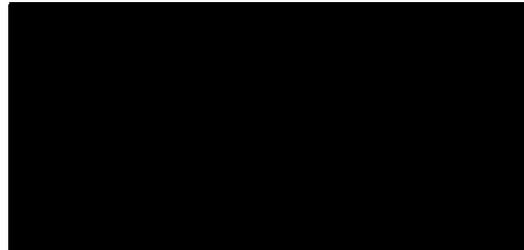
This is not a Primary Producer trying to supplement their farm income, nor does it qualify for the development requirements of a 'Farm Stay', from which the applicants are precluded based on DA 10.2016.818.2. When combined with the potential damage to the environment and the significant disruption and safety risks to the local community, this proposal should be declined.

Further, we seek that given the delicate nature of the river environment and the zoning as 7a- 'Wetlands Zone', no tourist access should be allowed to or in the river, including but not limited to motor boats, canoes, paddle boards and kayaks.

SIGNED



Terry Davis



Jodie Lunn



From: [Samantha Turrisi](#)
To: [submissions](#)
Subject: Submission- 150 Tandys Lane, Brunswick Heads- DA Number 10.2019.343.1
Date: Tuesday, 23 July 2019 10:16:03 PM
Attachments: [Submission 150 Tandys Lane Hornery Final.pdf](#)

Resubmitting as subject line was missing DA number- thank you

Dear Byron Shire Council,

Please find attached our submission in relation to the development application at 150 Tandys Lane Brunswick Heads.

It was difficult to pull together a more thorough submission, given the public notification period was over school holidays.

We appreciate your time in reviewing our submission and we look forward to hearing from you.

Thank you

Samantha

24 July 2019

Byron Shire Council
70-90 Station Street,
Mullumbimby, NSW 2483

Submission by email only to: submissions@byron.nsw.gov.au

Dear Byron Shire Council,

Submission: "River Hawk Ranch"- 150 Tandys Lane Brunswick Heads, NSW Application No: 10.2019.343.1

This is a submission in relation to the property "River Hawk Ranch" at 150 Tandys Lane, DA 10.2019.0343.1 which is before Council for assessment.

We are owners and residents of 143 Tandys Lane, Brunswick Heads, a young family, with 3 children under 7 years of age. Our property is situated directly across from the proposed development and directly affected. We strongly object the proposed development. We are aligned with all (100%) of the neighbouring property owners and a number of other residents in the area, whom are part of the Anderson Hill Community Submission who are strongly opposed to the development.

We are disappointed that the Applicant did not undertake any community consultation (informal or formal) and our only option was to raise concerns through a formal submission to the DA.

The proposed use is Prohibited Development. The proposal should be refused by Council.

Please refer to the section below in Town Planning for details.

We are concerned about the adverse impact of the proposed tourist accommodation dwellings on the neighbourhood, our property and our children. Our children run and play, along with other children, elderly people, long standing residents right at the frontage of the proposed development. The main areas of concern include;

- Non-compliance with planning regulations;
- Loss of Amenity;
- Impact on Scenic values of the land;
- Traffic generation and associated safety concerns;
- Access and driveway locations;
- Environmental Impact on Simpsons Creek;
- Impact of Tourism ventures on the Community;
- Primary production element;
- Scale of Development; and
- Functions & Events Operations.

CONTEXT

150 Tandys lane is located on the eastern side of the highway, situated amongst a group of rural residential/ rural properties. Tandys lane is a no through rural lane with a scenic rural outlook. There are only 5 properties past the point at which 150 Tandys Lane is located.

Tandys Lane, particularly east of the highway, is a private, family focused, sleepy neighbourhood where there are no commercial operations in existence. It is a residential community, where children ride their bikes up the lane, elderly people walk their dogs and people exercise and enjoy the views across the rural landscape to the cape of Byron and ocean.

It is an escape for the residents, away from the towns/villages and a peaceful place to reside, away from tourism and its impact on the sense of community in residential areas in the Shire.

The landowners of 150 Tandys Lane, are the owners of the successful Byron Bay Accommodation "The Atlantic" and are in the business of Tourism Accommodation. The landowners of the proposed development have been actively promoting & marketing this development proposal as "River Hawk Ranch" (#riverhawkkranch) for a number of years.

PROHIBITED DEVELOPMENT

1 TOWN PLANNING

Please see in this section our understanding of the town planning surrounding the application.

DCP 2014

The proposed use is Prohibited Development and Council cannot legally approve this application.

The proposal is relying on the definition of Farm Stay Accommodation to gain approval for Tourist & Visitor Accommodation. ***Farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.*** The key element is that the use is only permitted ***on a working farm as a secondary business to primary production.*** The accommodation is the dominant use of the property and the bee keeping is secondary and a sham.

The property is zoned as RU 1 and RU2 area ***tourist and visitor accommodation*** is a use permitted with consent. In the LEP, ***tourist and visitor accommodation*** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers' accommodation,

- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

The establishment of Cabins in a Rural Zone, is reliant on the definition in the LEP for **farm stay accommodation** which “means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as **a secondary business** to primary production.”

The DCP2014 also states in Section 3.3.4 Rural Accommodation Object 3 “to facilitate and support the establishment of low scale farm tourism as **a secondary business** to primary production”.

It is clear, as outlined in the DCP and the LEP, that the intent of permitting tourist and visitor accommodation is to support primary producers, who have working farms with a secondary business. It is not intended that the tourism accommodation be the primary business of the property.

Evidence is not provided that the tourism business is the secondary business to primary production and not the primary business. This is evident as there is no evidence of primary production occurring on the property for commercial purposes. This is especially concerning and important in this instance as the landowner is an experienced Tourism Accommodation Operator and the primary production of the property is not substantiated. The applicant has merely stated that they have planted some jelly bush trees for the minor production of honey and some regeneration works. There are no bee hives apparent on the site. Please see links below and Appendix A illustrating the Owner is the owner of The Atlantic Byron Bay and also the instagram page of River Hawk Ranch which also states this.

River Hawk Ranch- the Proposed Cabins

It is evident it has been the long-standing intention of the Owners to operate the property as a tourism facility primarily. The property has already been marketed in the public realm as RIVER HAWK RANCH, “upcoming accommodation” for a number of years (approximately 5), as illustrated in the “River Hawk Ranch” Instagram page. See examples of some screen shots taken of the Instagram account which provide evidence of this (refer Attachment A). The Atlantic also has an Instagram page and there is a personal Instagram page for the Owner, which reinforces that the River Hawk Ranch is a business. There is not one reference to honey or regeneration works on the River Hawk Ranch Instagram. The Atlantic Byron Bay has 88,300 Instagram followers and River Hawk Ranch has 17,400 Instagram followers. This is not a small scale, secondary business.

The Jelly Bush trees were not evident until 31st October 2018 in the nearmap aerials, and at this stage only a small section were planted, with the full extend of planting only evident in the 31st March 2019 nearmap aerial. The River Hawk Ranch Instagram page has been promoting the property since late 2013, the plans were prepared by the architect for the cabins in September 2017 and the comments about “upcoming accommodation” evidenced

in November 2017. The cabins/accommodation were obviously the primary focus and are the primary business. It appears as if the planting has been undertaken just in time to lodge a development application.

It is profoundly evident they are in the business of Tourism Accommodation on this property 150 Tandys Lane- "River Hawk Ranch" and the Primary Production has been claimed as an attempt in which to negotiate the town planning regulations with no substantiating evidence. It is strongly evident that "River Hawk Ranch" will be the primary business on the property.

The Development Proposal is in conflict and does not comply with Section 3.3.4 , it is not a secondary business and should not be approved.

Is Primary Production really in operation?

The applicant has made some unsubstantiated statements in the SEE regarding the primary production on the property. The applicant states a JV agreement is in place with Manuka Honey, that they have planted some trees & have done some regeneration works. It should be noted that the Jelly Bush planting that has recently taken place has predominately occurred in the DM- 1A (an area under investigation for environmental purposes) area and not the RU zoning of the land.

There is very limited to no evidence of primary production on the property (which can be seen in the July 2019 nearmap aerial of the property) or in the material provided by the applicant. There are no apparent bee hives on the site, there are no apparent handling, production, processing or storage facilities obvious on the site and there is no evidence of it being for commercial purposes.

In any case, the scale of the claimed primary production is such that it could be considered a hobby and would not be considered a primary production.

A JV agreement with another farmer is questionable as being primary production, as dependant on the nature of the agreement, it could be limited to bee hives being put on the property by Manuka honey for periods of flowering for the trees, which is arguably not primary production. In addition, the trees recently planted, would not be flowering for a period of time and therefore unable to be of a commercial scale.

There is no definition of primary production or what the scale of primary production needs to be, to be considered primary production in this context. However, primary production, which is agriculture is defined as "extensive agriculture" and "rural industry" are defined in the LEP and provide some framework. The "claimed primary production" does not fall under these definitions, as highlighted above, there is no evidence of commercial scale, production, processing or storage facilities.

As stated, there is no significant and verified supporting evidence demonstrating that primary production is in fact operational on the property and of a scale that it is a commercial operation. It is very concerning that, given the land owners are in the business

of tourism accommodation and have been advertising this property as “River Hawk Ranch” for a number of years, that this has been set up as an avenue to gain approval and is not the primary purpose.

It appears that a JV agreement has been written, an area of trees planted as a mechanism to secure the approval, as a façade, when in fact the primary purpose for the property for the owners is for an accommodation facility.

Summary of Primary Business & Secondary Business

The accommodation is the dominant use of the property and the bee keeping is secondary and a facade.

There is no evidence of bee keeping

- No signage
- No Instagram or Facebook
- No website
- No evidence of the business being registered
- No evidence of selling their product commercially anywhere
- No hives on site
- No processing facilities or storage facilities
- There is no evidence that the business is or has been operating for any period of time.
- No advertisement on the River Hawk Ranch of the bee keeping.

There is substantial evidence “River Hawk Ranch”- the accommodation- is the Primary Business

- Established upcoming accommodation brand in the market place- River Hawk Ranch
- Website establishes as coming soon
- Instagram account with over 17,000 followers promoting the River Hawk Ranch for a number of years (approximately 5 years)
- A number of posts & comments about The Atlantic’s next new accommodation River Hawk Ranch
- Signage installed- River Hawk Ranch & some way finding such as ‘River’
- Owners of established Byron Bay accommodation, The Atlantic are the owners of River Hawk Ranch
- Active plans have been undertaken for at least 2 years to prepare for the accommodation (architectural plans, installation of Ranch entry statement, installation of signage etc, promotion on Instagram)
- Drone professional photography

The proposal does not comply with the DCP as there is no primary production at a commercial scale on the site and the accommodation will be the primary use of the property not the secondary. The proposal should be refused on this basis. We have sort professional, independent Town Planning Advice on this aspect.

Aerial Photo from Nearmap July 11th 2019 of 150 Tandys Lane- showing no apparent bee hives or primary production.



LEP- Small Scale

Part 6, Section 6.8 Rural and nature based tourism development has the objective to ensure that tourism development is small scale and does not adversely impact on the agricultural production, scenic or environmental values of the land.

The LEP states that Tourism Development in rural areas is required to be small scale. Small scale is defined as being small enough to be generally managed and operated by the principal owner living on the property.

We are concerned the scale of the proposed development is substantial, it will not be managed by the principal owner living on the property and managing and operating the facility. In any case, the regulation of this would be difficult.

The purpose of stating that it is to be small scale and able to be operating and managed by the principal owner living on the property is to reduce the impact of the operation on the area.

As the owners are the owners and operators of the Byron Bay Accommodation The Atlantic, it is highly likely that they will utilise their existing staff and service providers to operate the cabins. This rings alarm bells and is concerning as it takes the operation from having a lower impact, to a greater impact. It does not meet the criteria for small scale as it will have cleaners, linen trucks, maintenance people etc all come and go daily from the property.

The property, which not only includes the proposed 4 cabins, but the current 2 dwellings (up to 8-9 bedrooms), an art studio and swimming pool is of a **large scale**. Refer below to section on Scale of Development for our further concerns relating to this.

In addition, the proposal impacts significantly on the scenic values of the land. Please refer to section 5 below which outlines our concerns in relation to the impact on the scenic values.

The proposal does not comply with the intent of Section 6.8 as it is not of a small scale and it adversely impacts on the scenic values of the land. It should be refused on this basis.

Existing Approval & Withdrawn Application

The Property has an existing approval for a Dual Occupancy (10.2016.818.2). Erection of Dual Occupancies in Zones RU1 and RU2 is covered in the LEP Part 4, with the objective that is *“to provide alternative accommodation for rural families and workers”*.

The Applicant stated in their planning report at the time of application, that the purpose of the Dual Occupancy was for a **Managers Residence** for the housing of the worker undertaking the property manager role. Please refer to the Town Planning Report/ SEE prepared by Planners North and lodged with the application 10.2016.818.2 which states this.

We note that in the Bryon Bay LEP 2014, Part 6, Clause 6.8 Rural and Nature based Tourism Development, section 5, *Development consent must not be granted to development under subclause (4) if the development: (a) includes an ancillary caretakers’ or managers residence.*

We understand, from our review of the planning regulations, that there is no specific approval for a Managers Residence or Caretakers residence (neither of these are specific uses defined by the LEP) and that this is captured under the approval for the Dual Occupancy in Rural areas (*...to provide accommodation for rural families and workers*).

Based on this understanding and interpretation of the Farm Stay Accommodation would not be permitted at 150 Tandys Lane, due to the existing approved dual occupancy approved on the basis that it was for a managers residence on the property.

We note that a Development Application has been withdrawn for a bed and breakfast. 10.2018.366.1. It would be of concern if a bed and breakfast application was put back in to Council, as this would bring the number of accommodation rooms up to 8 and would be in conflict with the above mentioned clause.;

In addition, the approved Art Studio “The Makery” for guests (refer to Appendix A), which also increases the scale of potentially lettable holiday accommodation.

We also note that the Approval of the Dual Occupancy explicitly conditioned the restriction of the use for tourism/accommodation. In addition, we seek Council’s confirmation that the use is permitted in regard to this Clause 6.8 section 5, subclause 4 (a). We have not sought town planning advice on this aspect at this stage.

AMENITY ELEMENTS

2 TRANSPORT AND ACCESS

Increased Generation – Amenity & Safety Concerns

It is important to highlight that Tandys Lane is a no-through country lane way. It is not a typical rural road that carries volumes of traffic. It only services the residents of Tandys Lane.

One of the great concerns for residents in the area is the additional traffic generation created by the use and its impact on amenity and safety. The report prepared by SDS Civil Enterprises does not address the impact of the increased traffic movements at the location of the proposed development, and does not appear to contemplate that it is a no-through road, but merely considers the overall capacity of the road. **This is not a true representation of the impact of the development.**

The proposed additional traffic movements will have a significant impact on the amenity of an area and useability of a rural lane for local families.

Our property at 143 Tandys Lane, has only 5 neighbouring properties, which have people or car movements past the frontage of our property (refer to map below).

SDS Civil Enterprises has adopted a rate of 2.5 trips per cabin as their assessment. Byron Shire Council does not have any regulations for appropriate rates for rural tourism accommodations. A review of industry accepted trip generation rates has found that the generation is more likely to be 3 trips per day, however this is based on a typical rate for a motel located in a town. It is our opinion that a rural tourism traffic generation would be greater than a more urban based tourism operation, given there are no facilities within walking distance of the property. It would make common logical sense that this would produce many more movements per day. In addition, the rate does not account for the service vehicles that will access the site for the cleaning of the cabins, linen trucks that will provide the linen and any maintenance or other staff required for the operation. We believe the rate per cabin would be much higher.

Applying the SDS Civil Enterprises trip per dwelling rate of 6.5, there are currently a maximum of 32.5 potential movements at the point of 150 Tandys Lane. If you apply the rate nominated by the applicant across the 4 cabins and there are 10 trips per day, there is an increase in traffic movement at 150 Tandys Lane of **31%**. This is a significant increase in traffic movements for the local residents.

Sure it might only have an impact of 3% increase in regards to the capacity of the entire 1200 metres of Tandys lane to carry the traffic, based on its road type, but it has a **31% direct increase in traffic movements at 150 Tandys Lane**, which would significantly reduce the amenity of the residents that live and play in this area. Such a large increase in traffic movements, 31% generates not only amenity concerns, but also safety concerns for the

families within the area. This does not account for traffic generated by servicing the accommodation nor does it account for the fact that it is rural based accommodation.

If a greater rate per cabin were applied, more in line with the dwelling rate of 6.5 movements per day, which in a rural area is probably a more realistic assumption for accommodation, you would be looking at an 80% increase in traffic movements for the area.

Nearmap shows the 5 properties past the point of 150 Tandys Lane (illustrated by orange ovals)



Crossovers/ Accessways

The property currently has 7 driveway crossovers in which vehicle movements are made (refer to existing locations of accessways). An additional accessway would make for 8 accessways. In Rural areas the crossovers are limited to 1 per property. Given the property is split by the laneway, it would be reasonable for the property to have 2 access/crossovers.

There is currently one very dangerous accessway to the property which is situation right on a corner and has very limited to no visibility. Full analysis of visibility of these crossovers should be undertaken and safety assessed. This accessway should be removed, we have witnessed the unsafe crossing at significant speed.

Council should restrict the accesses/crossovers to the property to only 2, one for each side of the property. 8 points of access/crossovers is excessive and not in accordance with Council regulations.

Access to Accommodation

Given the crossover is directly in line with the alignment of Tandy Lane, it is considered dangerous, as we witness currently, with the few car movements across this accessway, that cars travel at full speed allowable on Tandys Lane and fly directly into the driveway at the same speed.

The proposed access location for the cabins is of major concern due to this. It would be preferable and much safer if the access location was through the existing driveway cross over to the house. This would also reduce the visual impact on the rural amenity as the accessway would be more discrete.

It is apparent a detailed sight distance assessment of the proposed access location for the cabins has not been undertaken to demonstrate the safety of the crossover in this location. It is not a safe location for an access way in its current form and particularly so with increased traffic movements.

Our traffic engineers have reviewed the sight distance assessment completed for the proposed access and note that there is uncertainty in the safety of this accessway.

We request that Council move the location of the accessway to the existing driveway for the house.

Mark up of Plan illustrating the current existing access ways to the property, highlighting 1 existing dangerous access way on a corner and highlighting a safer access way for the proposed cabins.

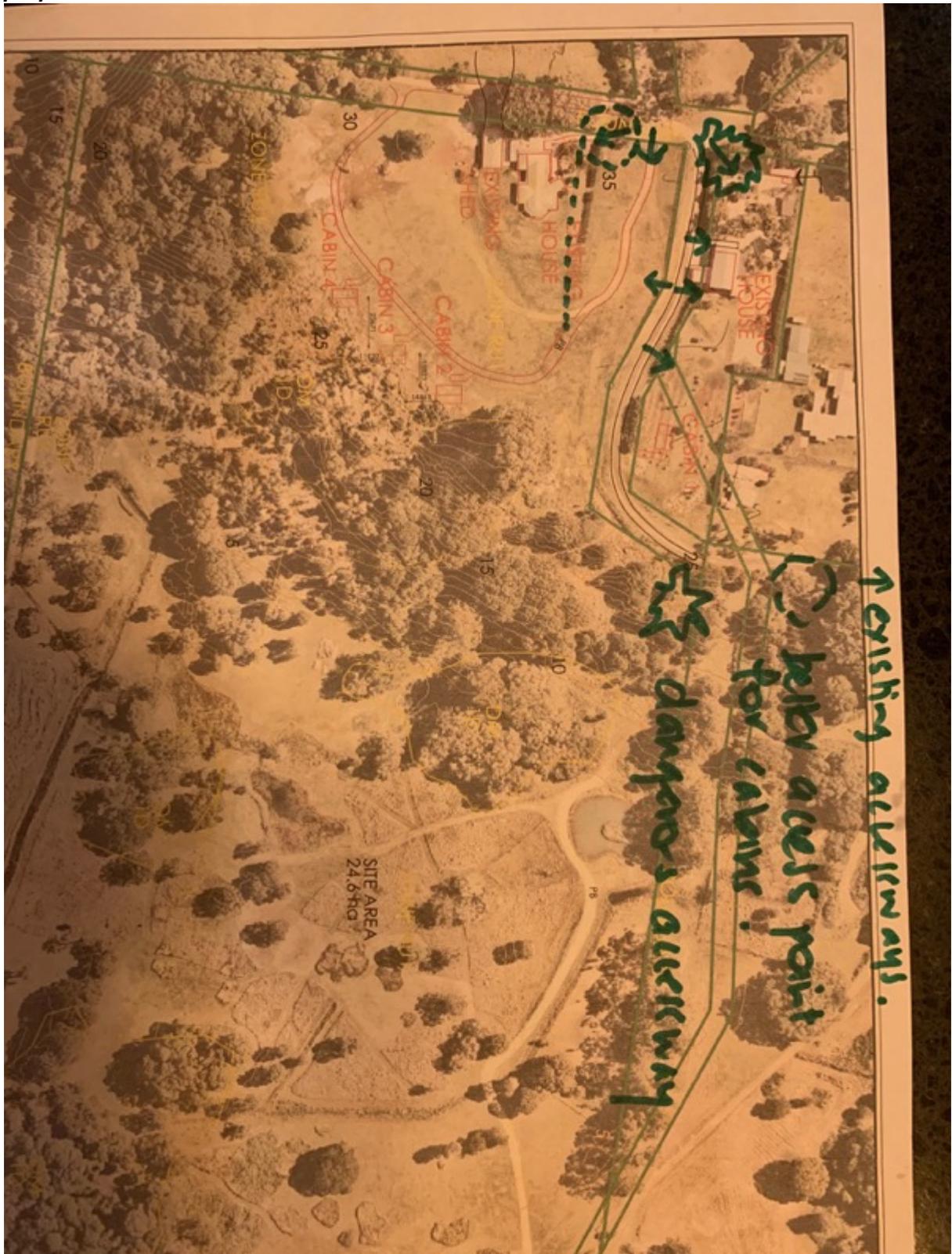


Photo illustrating the proposed entry for the accommodation is directly in line with the alignment of Tandy Lane and is a dangerous entry point for the accommodation.



Tandys Lane Road Quality

Tandys Lane is currently already in a very poor state/ condition with a poor standard of edge interface. This brings into question the ability of the existing pavement (quality) to adequately accommodate additional traffic. The risk of crash will likely be higher for drivers unfamiliar with the conditions (e.g tourists staying at the cabins).

As Council would be aware, a submission made by the landowner of 150 Tandys Lane, on behalf of themselves and a group of residents on Tandy Lane on the 9th November 2018. The road requires a permanent repair solution, though patching.

The proposed development at 150 Tandys Lane, would put increased pressure on the road and it is sought that if Council is to approve this application, that they would condition it to contribute to the correct permanent repair solution and Council would prioritise to undertake patching.

3. ENVIRONMENTAL IMPACT TO SIMPSON CREEK

We are concerned that the additional tourist accommodation will further degrade the sensitive protected wetlands on the property that front Simpsons Creek, noting that the owners of the property already have building works including permanent amenities facilities and have undertaken some rock work which “dams” the creek within the zoned 7A coastal wetland area. We note that the SEE states to the contrary:

“The Area mapped as Coastal Wetland and Proximity to Coastal Wetland adjoins Simpsons Creek and no development is proposed on this part of the site.”

Please see attachment A of photo evidence from the River Hawk Ranch of some of the facilities that sit within the 7A mapped area. This part of the creek is also part of a Green Zone.

The concern for the environmental protection of this sensitive area is significant when you consider the number of tourists that will frequent “River Hawk Camp” as part of the “River Hawk Ranch” experience.

We understand the EPA has received complaints from local canoeists about the works undertaken in the coastal wetland area. Council should restrict all river access, including but not limited to kayaks, canoes and motor boats for tourists.

4. IMPACT OF TOURISM ON RURAL/RURAL RESIDENTIAL AREAS

There are a number of articles published and research undertaken into the impact of tourism on rural/ residential areas. Council is well aware of this issue. It is known that tourism accommodation in residential areas, in particular rural residential areas, has a significant impact on the sense of community in the locality.

We are bringing up small children in this location, just like our neighbours have for the last 40 years, we want our children to walk and play in the streets and be able to wave to a known neighbour, not concerned about dodging traffic coming and going from the new sought-after accommodation.

This is not the place that we bought for our children to be brought up in. We bought on a quiet, no through lane, with genuine neighbours young and old, who appreciate the escape from the “tourist” areas and busy towns.

There has to be some consideration for the Social and Community impact of Tourism, particularly at the scale proposed.

5. SCENIC AMENITY IMPACTS

The peak of Andersons Hill, a historically significant location for the Shire, that amazingly has views stretching from the Cape of Byron, across the ocean to Coolangatta. All is in sight,

the white wash against the beach, the whales jumping, Julian Rocks. An outlook enjoyed across rolling hills by the local residents.

It's a special part of the Shire. Residents from the locality walk up to enjoy the view. The whole community enjoys the serenity, the view across the scenic landscape to the cape of Byron and the ocean.

The view would no longer be rural rolling primary production hills down to the ocean and across to the Bay, but would be a view of a number of cabins. The impact on the scenic amenity will be significant, particularly at the large scale proposed.

The accessway location/ driveway for the cabins and Cabin 2 are the main parts of the proposal that adversely impact the scenic amenity and impact on the view corridors as it is highly visible from Andersons Lane. The other cabins 3 & 4 are in a more appropriate location tucked around the side of the existing dwelling and cabin 1 is also tucked in close proximity to the more significant facilities/buildings on the site.

There is also concern for the lighting that would be emitted at night time from an additional 4 dwellings and any path find lighting and or other lighting emitted by the accommodation. We note no information has been provided to illustrate the potential impact of the lighting of the facilities and cabins on the amenity of the area.

6. SCALE OF DEVELOPMENT

We are very concerned about and object to any accommodation units being approved at all and in particular the number of accommodation units. 4 accommodation units, on a property that already has 2 houses (with at least 7-8 bedrooms in them) and an art studio is significant.

The scale of the development is too large and the potential for an increase in lettable rooms with the existing buildings on site, could easily result in a very large scale tourism operation on the property. This is not a small scale proposal. There is the potential for a number of lettable guest rooms which would become available on the property- across the 2 existing houses there are at least 8 bedrooms between them, The Makery which has a bedroom and the proposed 4 cabins, which brings the potential for there to be 12 lettable accommodation rooms.

There are also facilities, such as, a large pool and art workshop which may be utilised by the people staying in the accommodation as well as the environmentally sensitive estuarine river frontage area marketing as "River Camp". The existence of such facilities, substantially increases the scale of the tourism operation.

Increasing the volume of people across the 5 properties surrounding 150 Tandys Lane & 150 Tandys Lane itself, from approximately 15.6 adults sleeping at the night (using the average of 2.6 people per household) by an additional 8 adults, is a 50% increase in people sleeping each night. This is not a small impact. A 31% plus increase in traffic movements and 50% increase in people on the hill-that has a significant impact and is not small scale.

7. SAFETY

We are concerned about the safety of the children and domestic/ native animals. This is due to the increased traffic movements and the increased number of tourists coming and going from our rural residential area.

We are concerned about not knowing the people in our neighbourhood and the impact this may have on the safety of the children in our community.

We are concerned for the safety of the native wildlife we have in the area (eg. Echidna's which frequently cross the Lane at a vulnerable speed) and our pets with the increase in traffic movements.

We are also concerned that a fire truck/emergency vehicle would not be able to get through the River Hawk Ranch entry statement.

7 EXISTING EVENTS & FUNCTIONS OPERATION

There are currently a number of events and functions that operate at this property at different times. We understand that events and functions are not approved use as part of any existing approval over the site.

There have been 10 events, functions and launches that we have noted have taken place on the property. Please note that additional events may have taken place, this is not an extensive list, just a few dates where events have been run; May 27th 2017, September 13th 2017, November 27 2017, April 13th 2018, July 5th 2018, Sunday 22nd July 2018, August 18th 2018, September 27th 2018, December 13th and December 14th2018, Recent Event circa April 2019. Refer to attachment A for some images and a link below to show an example of what has been taking place.

Patron Soire- Launch <https://www.vogue.com.au/celebrity/events/inside-the-patroacuten-tequila-party-at-river-hawk-ranch/image-gallery/a7c95f090a156096775c7fc6d18038de>

Please note that on Google search, River Hawk Ranch comes up as an event venue (refer appendix 1). These events have subjected the residents of the area to increased traffic, visual impact of multiple cars parked, in some cases loud music and noise.

It is sought that Council restrict the approval of the current application in for assessment to have a condition to restrict operation of events and functions. It would be of great concern, if these events/functions were happening at such regular intervals without accommodation on site and without approval, that these events could be increased significantly.

SUMMARY OF AMENITY CONCERNS- PROPOSED ACTIONS

If Council is satisfied that the proposed tourism business is secondary and not primary and that primary production is in operation at a commercial scale (which is based on the professional opinion we have sort, highly unlikely to be substantially proven), we seek Council considers the following to address the amenity concerns;

1. Reduce the number of cabins approved on the property. The scale of development is concerning and is not small scale.
2. Reduce the number of cross overs on the property from the current 7, proposed 8 to 2 given the property is split by Andersons Lane.
3. Change the access for the cabins to the existing driveway for the dual occupancy/ existing dwelling.
4. Elevate and or condition a contribution for the repair works on Tandys Lane to patching.
5. Condition the approval to not permit events or functions.
6. Restrict all river access, including but not limited to kayaks, canoes and motor boats for all tourists.

SUMMARY OF NON-COMPLIANCE

1. There is no evident primary production occurring on the property, which precludes the “farm stay accommodation”. The proposed development will be the primary and not the secondary business. Well evidenced in this document with “River Hawk Ranch” promotions/marketing, that it is the primary business, reinforced by the fact there is not one promotion for honey or regeneration. Non compliance with Section 3.3.4 means the proposed development is **prohibited development and the development assessment stops here.**
2. The proposed development is not of a small scale and will very unlikely be operated by the Owners;
3. The proposed development has a significant negative impact on the scenic rural values and amenity;
4. The proposed development traffic and access location will have a significant negative impact on the amenity and safety of the residents;
5. The use of the established “River Camp” facilities on the Simpson River in the wetland zone will have significant environmental impact

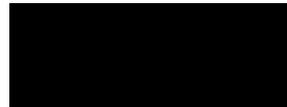
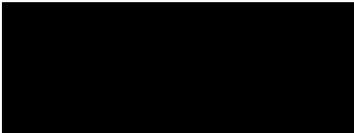
CONCLUSION

We seek that Council refuses the application on the basis that there is no primary production in operation at a commercial scale with verified and substantial evidence and on the basis that the tourism accommodation is the primary business not the secondary. It is evident in the public realm and through this submission it is the primary business-River Hawk Ranch.

The proposed use is Prohibited Development and Council cannot legally approve this application. We have sort expert professional, independent advice in relation to this aspect of the application.

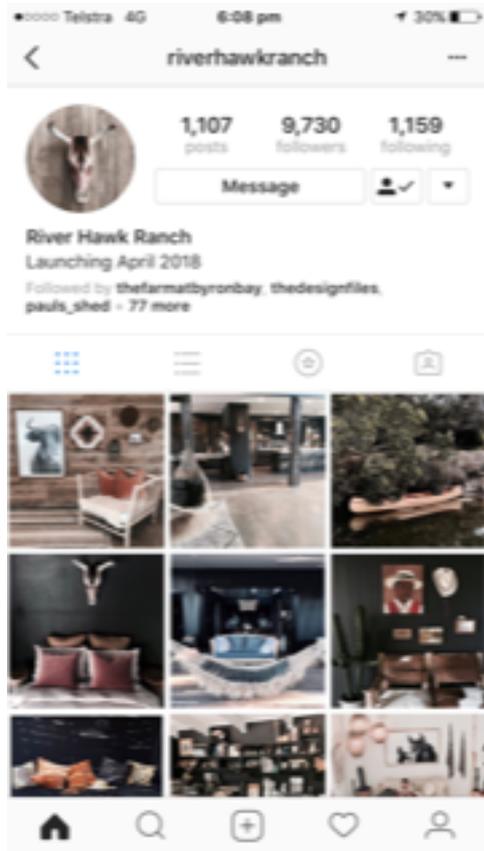
Thank you for consideration of our concerns in regard to this Development Application. We reiterate that we strongly object this development application, along will all of the neighbouring landowners. We appreciate your time in reading this. We seek Council provide us with a written response to our points raised and the concerns we have. Due to school holidays, we were unable to do a more thorough job of this.

Yours Faithfully,

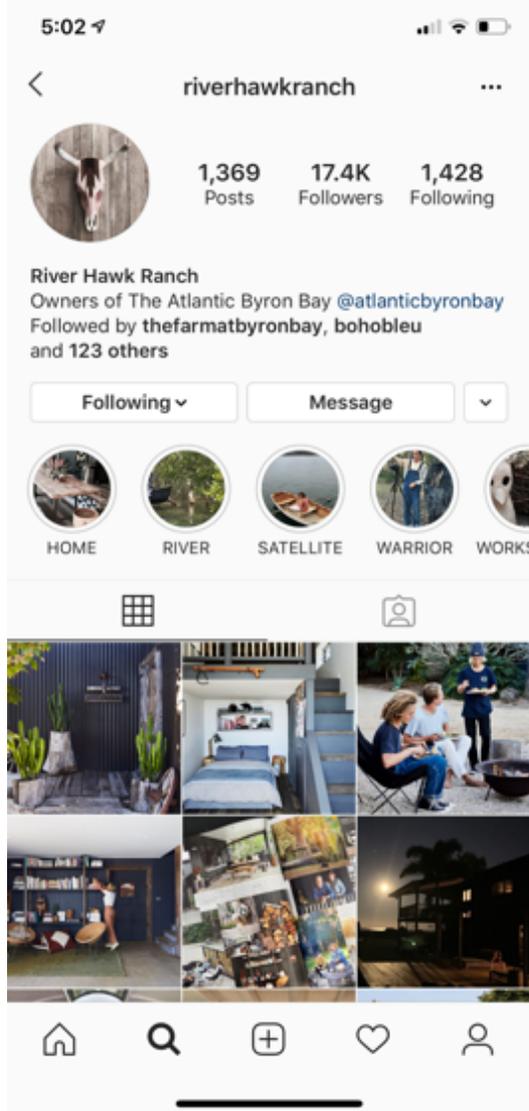


Attachment A

Photo taken as a screen shot late 2017 of “upcoming” launch of River Hawk Ranch- stating **Launching April 2018** as shown below (this was later changed to “Owners of The Atlantic Byron Bay”)



Screen Shot Photo showing Owners of River Hawk Ranch also own The Atlantic



Example Evidence of the Accommodation being upcoming posted in 2017- "The Atlantic's wonderful new accommodation River Hawk Ranch"



Example of Upcoming Accommodation posted in January 2019- Cabins & a canoe available soon



Land Owners of The Atlantic & River Hawk Ranch are the same

<https://grazia.com.au/articles/how-to-holiday-in-byron-bay-like-the-a-list/>

<https://www.herewith.com/journal/involuntary-visionaries-kim-amos>

8:49 4G
Mobile Pro

13 Marvell Street Byron Bay NSW...

Last Sold on 09 Dec 2005 at \$2,650,0...

Settlement Date	12 Jan 2006
Sold by	Elders R Gordon And Sons Real Estate
Sale Type	Multiple

Valuation Estimate Rental Estimate

Sorry, CoreLogic Valuation Estimate not available for this property.
The Valuation confidence level is too low.

Owners

AMOS
13 MARVELL ST BYRON BAY NSW 2481

EAKIN
13 MARVELL ST BYRON BAY NSW 2481

Household contacts not available

Property History

All Sale Listing Rental DA

Search Watchlists Trends More

8:49 4G
Mobile Pro

150 Tandys Lane Brunswick Head...

Settlement Date	19 Jan 2015
Sold by	Ray White Byron Bay

Valuation Estimate Rental Estimate

Sorry, CoreLogic Valuation Estimate not available for this property.
The Valuation confidence level is too low.

Owners

AMOS
150 TANDYS LA BRUNSWICK HEADS NSW 2483

EAKIN

Household Contacts

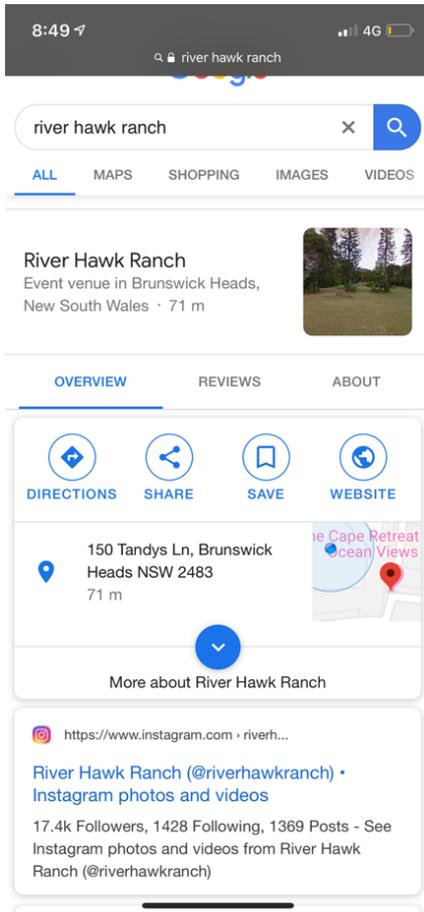
[Redacted]

Property History

All Sale Listing Rental DA

Search Watchlists Trends More

River Hawk Ranch comes up as at Event Venue



Examples of Some Events Held

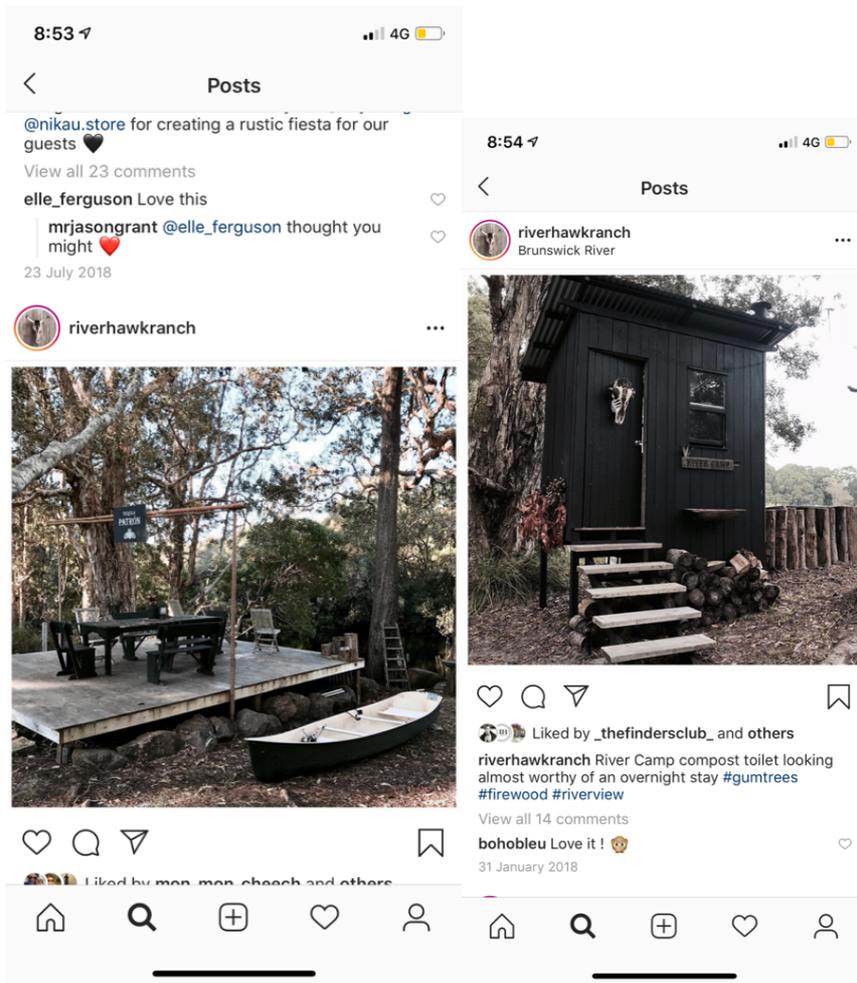
Left Post:
Time: 4:33
Tagged
73 likes
byronbaytipiweddings Come on... We all know Splendour is really about the Pre-Splendour parties 😄 We couldn't wait to get NAKED with @mrjasongrant for @patron @maxmedialab at @riverhawkkranch. incredible floral styling by the gorgeous @nikau.store who said you can't have Tequila for breakfast!! #byronbay #patrontequila #presplendourparty #tequilaforbreakfast #byronbaytipis
View 1 comment
29 July 2018
myvintagelane

Right Post:
Time: 4:27
Tagged
atelierbyronbay
Brunswick, New South Wales, Australia
33 likes
atelierbyronbay NEW WORKSHOP DATES. 4/5TH APRIL River Hawk Ranch will host a series of two day workshops with internationally renown artist Dominique Sutton in the beautiful surrounds of Byron Bay.
In this dynamic workshop we will be exploring our relationship to nature through site specific sculpture and ephemeral art using materials found on site. There are forests, plains and river banks to explore

Photo of Makery set up for guests



Example of Facilities in the Protected Wetland Area



Example of Cars parked at one of the numerous events held at “River Hawk Ranch”



From: [Andersons Hill Community Group](#)
To: [submissions](#)
Subject: Submission- DA 10.2019.343.1
Date: Tuesday, 23 July 2019 3:10:00 PM
Attachments: [190723 Residents Submisison 150 Tandys Lane.pdf](#)

Dear Byron Shire Council

Please see attached a submission from a group of residents neighbouring the proposed development at [150 Tandy's Lane, Brunswick Heads](#).

Please note each of the residents contact details in the attachment.

We look forward to hearing from you.

Thank you

Date: 24th July 2019

Attention: Byron Shire Council

Subject: Submission- Development Application DA 10.2019.0343.1

By email to: submissions@byron.nsw.gov.au

Please find attached a signed submission executed by all neighboring property owners & residents of 150 Tandy's Lane, Brunswick Heads and additional owners from this close-knit community who oppose the development proposal (DA 10.2019.343.1) before Council.

The proposed use is Prohibited Development and Council cannot legally approve this application.

The proposal is relying on the definition of Farm Stay Accommodation to gain approval for Tourist & Visitor Accommodation. ***Farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.*** The key element is that the use is only permitted ***on a working farm as a secondary business to primary production.*** This is not the case for DA 10.2019.343.1.

The accommodation is the dominant use of the property and the bee keeping is secondary and a sham.

There is no evidence of bee keeping

- No signage
- No Instagram or Facebook
- No website
- No evidence of the business being registered
- No evidence of selling their product commercially anywhere
- No hives on site
- No processing facilities or storage facilities
- There is no evidence that the business is or has been operating for any period of time.
- No advertisement on the River Hawk Ranch of the bee keeping.

There is substantial evidence "River Hawk Ranch"- the accommodation- is the Primary Business

- Established upcoming accommodation brand in the market place- River Hawk Ranch
- Website establishes as coming soon
- Instagram account with over 17,000 followers promoting the River Hawk Ranch for a number of years (approximately 5 years)
- A number of posts & comments about The Atlantic's next new accommodation River Hawk Ranch
- Signage installed- River Hawk Ranch & some way finding such as 'River'
- Owners of established Byron Bay accommodation, The Atlantic are the owners of River Hawk Ranch
- Active plans have been undertaken for at least 2 years to prepare for the accommodation (architectural plans, installation of Ranch entry statement, installation of signage etc, promotion on Instagram)
- Drone professional photography

It is profoundly evident that the proposed use is prohibited development and Council should refuse this application.

24 July 2019

Byron Shire Council
Po Box 219
Mullumbimby, NSW 2482

By email only to: submissions@byron.nsw.gov.au

Dear Byron Shire Council,

Submission: 150 Tandys Lane Brunswick Heads, NSW Application No: 10.2019.0343.1

This is a submission made by a group of residents that live on Anderson's Hill/ Tandys Lane (referred to as Andersons Hill in this document) who are concerned about the negative impact of the proposed development currently before Council for assessment (DA 10.2019.0343.1). The residents and landowners who have signed the submission below **do not** support the proposed development.

The Andersons Hill area is a no-through, private, family focused, sleepy neighbourhood where residents escape to enjoy the scenic amenity and rural residential character. We are a small community ranging from the very elderly to very young families who all make regular use of our private no through laneway for recreation and informal community catch ups. There has been no community consultation process which is very disappointing for adjoining neighbours. We are very upset that our quality of life will be adversely affected and is at risk. We care about where we live, the sense of community that exists in this unique location and we ask Council to seriously consider the concerns raised by the residents.

The Applicant is in the business of/ is an established Tourism Accommodation Provider of the very successful and sought after 'The Atlantic Byron Bay'.

The residents bought in this area for the rural scenic amenity, sense of community & the peaceful retreat away from the Tourist areas of the Shire, not to be right next to a tourism hot spot. The residents are concerned about a number of issues relating to this proposal. The main areas of concern are documented below;

1. Increase of Traffic

/ The residents are very concerned about the additional volume of traffic generated by the proposed development and its impact on the amenity of our area.

/ The quiet no- through country lane is utilised by the community of Andersons Hill for walking, running, children playing, exercising domestic animals and riding bikes. There are elderly people and small children that use the road daily.

/ The traffic impact will not only include the trips for the guests staying in the accommodation but will also include servicing of the accommodation- daily linen trucks, cleaners and maintenance people.

/ The Reports prepared by the Applicant, do not contemplate the amenity impacts of the traffic increases, they only contemplate the capacity of the Lane.

/ At 150 Tandys Lane, there are only 5 properties past it, which generate traffic movements. The additional 4 accommodation units will significantly increase the traffic movements which will impact on the amenity of our homes and our neighbourhood.

/ The community is concerned about the proposed location of the entry for the accommodation, as the entry is directly in line with Tandys Lane, which results in vehicles travelling at speed directly into the crossover/entry.

/ The community is concerned about the number of crossovers currently on the property (currently 7 crossovers utilised on the property).

/The community is concerned about the impact of the development on the quality of Tandys Lane. Tandys Lane is already in a very poor state and the increased traffic would have an increased impact on the quality of the road.

/ The community is concerned that the real impact of increased traffic hasn't been assessed, as the property already has 2 very large homes on in (4 bedrooms at least each) which could well and truly be enough in themselves as farm stay accommodation.

/No consideration has been made for the fact that it is a no-through lane. It's not a normal rural road that carries traffic like other parts of the Shire.

2. Negative impact on sense of community

/ Andersons Hill is a private, community focused rural residential area, where we all know each other. We are concerned the sense of community will be eroded by the introduction of tourism facilities, as unknown people come and go from our neighbourhood on a daily basis. The impact of tourism on residential/ rural residential areas is well known and we fear our homes are at risk.

/ The community is concerned that our homes and our privacy will be affected by "sought after" tourist accommodation.

/ We value the sense of community that is established here on Andersons Hill, with residents having lived and brought up their families here for the last 40+ years in a beautiful, quiet rural area.

/ The residents 'understand' from local real estate agents that the property is on the market, questioning the commitment of the Owners to actually owner/operating their proposed accommodation and their commitment to the area as a rural community (as evidenced by the lack of any community engagement);

3. Impact on Scenic Rural Amenity

/ The property where the development is proposed, sits at the peak of Andersons Hill, overlooking the Cape of Byron Bay and ocean via rolling green rural hills. The community is concerned about the visual impact of 4 additional buildings/structures.

/ From Tandys Lane/ Anderson Lane, instead of looking across rolling rural primary production land, the view will be of a number of cabins. This is a significant impact on the rural scenic landscape.

/ Every landowner bought on this hill for a peaceful rural lifestyle, away from the tourist areas. The impact of the proposed tourism accommodation on the quality of the rural lifestyle is great.

4. Safety Concerns

/ The community is concerned about the safety of our elderly, our children and our domestic/ native animals. This is due to the increased traffic movements and the increased number of tourists coming and going from our rural residential area.

/ We are concerned about not knowing the people in our neighbourhood and the impact this may have on the safety of the children in our community.

/ We are concerned for the safety of the native wildlife we have in the area (eg. Echidna's which frequently cross the Lane at a vulnerable speed) and our pets with the increase in traffic movements.

/ We are very concerned about the winding, narrow nature of the roads, which are difficult to navigate as a local and completely unsuitable therefore for inexperienced tourists - and a threat to walkers, dogs and small children and oncoming traffic.

/ We are very concerned about the location of the entry to the accommodation. It is not a safe entry point.

5. Scale of Development

/ The community are very concerned about any accommodation units being approved at all. The number of accommodation units proposed is particularly concerning. 4 accommodation units, on a property that already has 2 houses and an art studio is significant.

/ The community is concerned that the scale of the development is too large and the potential for an increase in lettable rooms with the existing buildings on site, could result in a very large-scale tourism operation on the property.

/ The community is very concerned that this is a large scale tourism operation, with central facilities (art studio/pool) along with 2 existing dwellings with at least 4 bedrooms each, being more than enough to qualify as a 'farm stay'. There is the potential for up to 12 lettable rooms.

/ The community is very concerned that the scale of development is not appropriate for a rural area.

The residents appreciate the Council and Council Officers taking consideration for our genuine concerns raised in this submission. We are passionate about protecting where we live and our community.

This submission is made on the 24th July 2019 by the following land owners and residents of Andersons Hill;

Name	Residence	Contact Email Address	Signature
Mark Bentley	resident of [REDACTED] [REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Terry Davis	resident of [REDACTED] [REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Benjamin Hornery	resident of [REDACTED] [REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
David Kas	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Gabby Kas	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Jodie Lunn	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Kevin Skelton	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Amanda Skelton	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Samantha Turrisi	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Laura Upsall	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Gini Frichot Harvis.	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Poppy Frichot	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Carl Norling	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Tom Anderson	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Ollie Kas	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Lu Kas	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
Esme Norling	[REDACTED] Brunswick Heads	[REDACTED]	[REDACTED]
John Wilton	[REDACTED] Lane Brunswick Heads	[REDACTED]	[REDACTED]
Sheila Wilton	[REDACTED] Lane Brunswick Heads	[REDACTED]	[REDACTED]
Greg Wilton	[REDACTED] Lane Brunswick Heads	[REDACTED]	[REDACTED]
Angie Wilton	[REDACTED] Lane Brunswick Heads	[REDACTED]	[REDACTED]
Melanie Davis	[REDACTED] BRUNSWICK HEADS	[REDACTED]	[REDACTED]

The residents can be contacted at their individual home addresses or by email

From: [President submissions](#)
To: [Councilors 2016: Burt Shannon](#)
Cc: [submission on DA 10.2019.343.1 for Tourist and Visitor Accommodation at 150 Tandys Lane Brunswick Heads](#)
Subject: [Thursday, 1 August 2019 11:01:22 PM](#)
Date: [https://www.brss.com.au/](#)
Attachments: [dfb1c1mbodhncs.jpg](#)
[gasfasb1b1hdob.jpg](#)
[mccoadsb1aj1gacng.jpg](#)

Submission on:

Development Application (10.2019.343.1)

Description: Tourist and Visitor Accommodation comprising Four (4) One Bedroom Cabins
Submitted Date: 27/06/2019
Application Type: Development Application

150 Tandys Ln, Brunswick Heads 2483 NSW (LOT: 5 DP: 863320)

While CABS agrees that four rural tourist cabins is a small scale development that is permissible on the property in question we are very concerned that this DA for rural tourist cabins is trying to short cut the requirements under SEPPs, the LEP, the DCP and the BRSS. This DA should be supported IF and only IF all the requirements have been met. From the information and points listed below the required information has clearly not been provided and in some cases may have been deliberately omitted. This is the same for almost all rural tourist accommodation DAs that CABS sees and we would ask Council staff to assess these DAs properly against ALL the relevant criteria and not just rely on the abbreviated and inadequate information provided by proponents and their planners. None of the CABS executive or members are planners so please excuse any minor errors we may make. We stand by the bulk of this submission despite and small errors it may contain.

1. The DA does not comply with Chapters 7 or 8 of the Byron Rural Settlement Strategy 1998. The Byron DCP 2014 Chapter D3 Clause 2.3 Performance Criteria requires that the proposal is consistent with the relevant Aims, Guiding Principles, Best Practice Guidelines and Performance Standards contained in the Byron Rural Settlement Strategy 1998 ('the Strategy') and in particular (c) The relevant Best Practice guidelines are contained in Chapter 7 of the Strategy and (d) The relevant Performance Standards are contained in Chapter 8 of the Strategy. The relevant sections are included at the end of this submission. In a recent Land and Environment Court judgement (2018) NSWLEC 1695 Ardill Payne & Partners v Byron Shire Council, Commissioner Walsh found that "...the DCP provisions calling up the Byron Rural Land Use Settlement Strategy remain live and pertinent, albeit subject to the provisions of s4.15(3) of the EPA Act. This is because a policy document has no power to alter a statutorily made DCP.
2. The plans show carparks beside each rural tourism cabin. This does not comply with the BRSS which requires centralised car parking facilities.
3. Two new driveways are proposed off the road reserves. This does not comply with the requirement with a single driveway entrance. Because the lot is divided by a road reserve clearly two driveway entrances are required with one on either side of the road reserve. However this application proposes two additional driveway entrances bringing the total to four. The proponents should re-design the driveways to only utilise the two existing driveways.
4. Cabin 1 should be clustered with Cabins 2, 3 and 4. It should not be separated and have its own access driveway.
5. The safety of the existing intersection of Tandys Lane and Gulgarn Road has not been assessed in the site access and traffic report. This intersection is already dangerous with insufficient turning lanes into and exiting Gulgarn Road. Additional tourist traffic may put additional pressure on this intersection with the potential for traffic accidents. The current traffic usage of Tandys Lane should be assessed and consideration should be given to an intersection upgrade.
6. The assumption in the access assessment that each cabin will only generate 2.5 vehicle trips per day is not supported. The RTA Guide to Traffic Generating Developments states that the daily vehicle trips for a dwelling house is 9 per dwelling, and the weekday peak hour vehicle trips is 0.85 per dwelling. Each farm stay accommodation building should be assumed to be equivalent to a dwelling house for the purposes of traffic generation. The access assessment should be recalculated using these new assumptions.
7. The traffic assumptions assume 43 existing dwellings along Tandys Lane. But with approved dual occupancies and secondary dwellings the number exceeds 50 dwelling. A full audit of approved dwellings on Tandys Lane should be undertaken.
8. The setback of the cabins from the existing native vegetation does not comply with the BRSS which stipulates a minimum 20m setback from native vegetation.
9. The development does not comply with the BRSS which requires plating of 900 native plants per cabin equaling 3600 plants.
10. No **Environmental Enhancement and Management Plan** was submitted with the DA as required by the BRSS.
11. No **assessment of the impact on groundwater and surface water** was submitted with the DA as required by the BRSS.
12. The BRSS stipulates a minimum of 10,000 litres of water storage capacity per holiday cabin for bushfire control but the DA is contradictory and in one case only proposes a single 10,000L tank and in others proposes 4 X 10,000L tanks
13. The BRSS requires a **Fire Management Plan** to be submitted with the DA but no such plan has been included. Note that a Bushfire Assessment Report is NOT a Fire Management Plan.
14. The BRSS requires a **energy efficiency site analysis report** to be submitted with the DA but no such report has been included.
15. The BRSS requires a **detailed site assessment of the potential impacts on and buffers to agricultural, horticultural and extractive industries (LUCRA)** but no such assessment has been included.
16. The BRSS requires a **Water Management Plan** but none has been included. The minimal information provided in the DA cannot substitute for a **Water Management Plan**.
17. It is indicated in the DA that reticulated water from Rous Water is available but the proponent needs to obtain authority from Rous County Council to use reticulated water for commercial purposes before it can be connected to the tourist cabins.
18. The proponents authorised timber plantation activities do not replace the need for environmental enhancement or landscaping works. The BRSS states, "*Whilst Council encourages planting activities undertaken for the purpose of plantation forestry such activities will not be considered a substitute for Council's environmental repair requirement applying to rural settlement. Similarly; Council will not regard plantings undertaken for domestic landscaping purposes as fulfilling the environmental repair and enhancement program objectives*". A timber plantation whether native or not is not environmental enhancement as it makes the assumption that the timber will be harvested at some point in the future.
19. The site map prepared by Tim Fitzroy and Associates and submitted as part of the DA shows the Endangered Ecological Communities on the property, the SEPP Coastal Wetlands and Drainage Channels on the property. It is clear that a Species Impact Assessment should have been carried out due to proximity to and potential impacts on threatened species and the threatened lowland sub-tropical rain forest Endangered Ecological Community. [\[4\]](#)
20. A copy of the Plantation Authorisation and the Authorised Plantation Plan as issued by the Department of Industries under the Plantations and Reafforestation Act has not been supplied with the DA. Copies of both should be provided.
21. Before commencing any plantation operations the land owners are required to have prepared a **Forestry Operational Plan** under the Plantations and Reafforestation Code. Such a **Forestry Operational Plan** is a requirement of any Plantation Authorisation. The DA indicates that some plantation establishment work has already been undertaken on the property. If this is the case a copy of the Forestry Operational Plan should be supplied.
22. The onsite wastewater assessment states, "*The existing native vegetation and SEPP 14 wetland require protection of environmental values and future use as tourism accommodation will potentially affect the viability unless adequate precautions are employed to effectively manage onsite sewage*". Yet an unauthorised outdoor recreational facility and composting toilet have been constructed within the SEPP 14 Wetland area.
23. An existing studio is shown on the site plans north west of the approved dual occupancy yet no approval seems to exist or has been provided for this studio. If no approval exists the studio should be decommissioned or a separate DA should be submitted. Any reference to an "existing studio" should be removed from the plans.
24. The DA references an Aboriginal Site Assessment carried out by the Tweed Byron Local Aboriginal Land Council yet no such assessment has been included with the DA. The proponent should be required to provide this assessment to corroborate their assertions.
25. No mention is made in the DA of the heritage significance of the old Brunswick Road which runs through the property. The protection of old Brunswick Road (from Tyagarah to Brunswick Heads) as a Heritage Road is also of importance (part of the first surveyed and gazetted road in Byron Shire and the route for the original postal run by horse from Lismore to the Tweed. As it runs through the property its protection should be ensured.
26. A complete biodiversity assessment should be carried out given the significant vegetation on the property. The current information is inadequate to properly assess the environmental enhancements being undertaken particularly if they are for a timber plantation rather than for bush regeneration. If the land owners were to commit as a condition of consent to converting their timber plantation into a carbon sequestration plantation under the plantation and reforestation code that would be a step in the right direction.
27. A SEPP 44 koala assessment needs to be undertaken as the land is in a mapped wildlife corridor and is in the Brunswick Heads - Tyagarah Koala Management Precinct and has mapped Koala Habitat on the property. It is unclear why no SEPP 44 assessment was carried out. Why did the SEE only assess against the Coastal Management SEPP and the Remediation of Land SEPP. The proponent should have known well enough that a Koala SEPP assessment was also required.
28. A commitment to demolish the unauthorised outdoor recreational facilities beside Simpsons Creek and Cape Byron Marine Park in the mapped SEPP coastal wetlands area.
29. A landscaping plan should be provided with the DA as required under the DCP 2014 Chapter B9.2.1. "A Landscape Plan must be submitted with all Development Applications....." The current DA is for *rural tourist accommodation* and not for *farm stay accommodation or bed and breakfast accommodation*. Accordingly a **landscaping plan** needs to be submitted with the DA. No landscaping plan has been submitted to the DCP specifications.
30. The DA states, "Installation of irrigation infrastructure is being investigated to support further planting". The applicants need to indicate where they will be sourcing water for irrigation.
31. It seems like the SEE has deliberately omitted important section of the DCP Chapter D3 Tourist Accommodation which it did not want to address. It has completely skipped over and omitted and assessment against D3.2.1 Location and Siting, including Performance Criteria. In particular the important omission in the DA is that no **comprehensive, professional assessment of the impact of the proposed development** has been carried out or included. As this is a clear and unambiguous requirement of the DCP its omission may raise some eyebrows. This assessment of D3.2.1 is important as the full Performance Criteria are:

1. The siting, design and operation of tourist accommodation and associated development **must not adversely affect important conservation values, ecological systems or characteristics of the site or the Shire. Development must respect and contribute to the natural environmental systems and values of its location and surrounds.**
 2. Development applications for proposals located in or near ecologically sensitive areas, areas of high conservation values and/ or important natural features or sites **must include a full description of those ecological, conservation and natural values and systems, together with a comprehensive, professional assessment of the impact of the proposed development thereon. The impact assessment must include an evaluation of the effectiveness and sustainability of any proposed amelioration and management measures.**
 3. Determination of the **siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.**
32. The SEE has also completely ignored addressing D3.2.3 Performance Criteria 2, "*The provisions of Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones apply to all tourist accommodation development in zones RU1 and RU2 in the same way they apply to residential accommodation in Rural Zones*". Failure to address this criteria cannot be ignored.
 33. The SEE states, "The Area mapped as Coastal Wetland and Proximity to Coastal Wetland adjoins Simpsons Creek and no development is proposed on this part of the site". Yet this is clearly not the case as unauthorised outdoor recreational facilities and composting toilets have been constructed in this Area. Council has taken no action to have the unauthorised outdoor recreation facility constructed on the banks of Simpsons Creek removed despite being aware of it for over two years. . The unauthorised facility is within metres of Cape Byron Marine Park is in a SEPP coastal wetlands area, is within a 7(a) wetlands zone under the Byron LEP 1988. Council needs to impose a condition of consent that these unauthorised developments are decommissioned and removed. See attached photos.
 34. The DA has made no assessment of the development against the following DCP chapters. These Assessments needed to be carried out by the proponent but they were not. They should be required to provide these assessments as additional information.
 - B4 Traffic Planning, Vehicle Parking, Circulation and Access
 - B6 Buffers and minimising land use conflict
 - B9 Landscaping
 - B13 Access and Mobility
 - C3 Visually Prominent Sites, Visually Prominent Development & View Sharing
 - D2 Residential Accommodation and Ancillary Development in Rural Zones

If the above omissions and inadequacies can comprehensively be addressed then and only then should the DA be approved.

Relevant Chapter sections extracted from teh Byron Rural Settlement Strategy 1998

GUIDELINES from Chapter 7 of the BRSS
<p>1. The minimum land area to be considered suitable for rural tourist cabins must not be less than 20 hectares.</p> <p>2. No more than six (6) holiday cabins may be constructed within the site area.</p> <p>3. Within each holiday cabin not more than 60m² in gross floor area, excluding balconies, a maximum of two (2) bedrooms, a kitchenette and one (1) bathroom are permitted. Alternatively, a rural tourist facility may include centralised communal kitchen, barbecue and associated dish washing sinks for use by all guests. Holiday cabins may also include a loft.</p> <p>4. No night time lighting for outdoor recreational facilities such as tennis courts or sporting ovals.</p> <p>5. All weather 'centralised' car-parking must be provided on-site at the rate of at least 1 car space per holiday cabin. The paving of car-parking areas is not encouraged (except where roads need to be on more steeply sloping lands), rather these areas should be either grass-covered or topped with gravel to an all-weather standard to ameliorate stormwater runoff.</p> <p>6. At least one of the cabins must have disabled access.</p> <p>7. The siting of holiday cabins must be such that:</p> <p>a) no cabin is less than 50 metres from the flood line of a natural waterbody or wetland;</p> <p>b) adequate separation distances are incorporated to minimise the potential for land use conflict between the proposed rural tourist facility and existing or potential conflicting land uses such as intensive agriculture, quarries, animal establishments, on adjoining or adjacent land;</p> <p>c) all cabins are located on land having either a North, Northwest/Northeast or East aspect or a slope of less than or equal to two degrees (2°) unless It can be demonstrated that other compensating arrangements will maximise solar energy collection and minimise energy use;</p> <p>d) all holiday cabins are to be arranged in a 'cluster' pattern unless a dispersed arrangement can be clearly demonstrated to be an ecologically superior solution. In the context of rural tourist facilities, a 'cluster' is defined as a group of three (3) or more cabin's located an average of 80 m and not more than 160 m apart from each other with adequate vegetation screening between the cabins (ie. to ensure privacy) and with the layout of developments in the cluster having regard to the physical site characteristics of the land and the need to provide access to the cabins for the provision of accident or fire emergency and other services such as sewerage disposal system, water supply and electricity;</p> <p>e) the release of sewage effluent associated with the development must not occur;</p> <p>i). within 100 metres (horizontal distance) from a wetland or natural waterbody such as a permanently flowing creek or river;</p> <p>ii) in an area of high watertable;</p> <p>iii) in an area of highly permeable soils; or</p> <p>iv) in an area of acid sulfate, sodic or saline soils.</p> <p>f) vehicle access to cabins is for loading and collecting baggage only, while guest car parking instead must be confined to a single centralised area on the site. This requirement does not apply to accessways set aside for disabled persons, emergency purposes (including accident or fire emergency) and other services such as sewerage disposal system, water supply and electricity.</p> <p>8. Holiday cabins should also be guided by:</p> <p>Purpose-Built Rural Tourist Accommodation - Guidelines on Government Approvals for Farm Holiday Resorts, Rural Retreats, Guesthouses, Cabins and Other Purpose-Built, Rural Tourist Accommodation, Walsh, P & A Consulting Pty. Ltd. 1997. A joint industry/government initiative.</p> <p>NSW Far North Coast Nature Based and Ecotourism Plan</p> <p>Tourism Development near Natural Areas Guidelines for the North Coast. Department Planning.</p> <p>Keeping Byron Unique - A Tourism Strategy. Byron Shire Council.</p>

Byron Shire Tourism Plan. Byron Shire Council.

• Coastal Tourism -A Manual for Sustainable Development. Commonwealth Coastal Action Program.

PERFORMANCE STANDARDS from Chapter 8 of the BRSS

8.1 WASTEWATER TREATMENT AND MANAGEMENT OF EFFLUENT

As per current Wastewater Treatment Assessments

8.2 ENVIRONMENTAL BUFFERS, REPAIR AND ENHANCEMENT

Guidelines

Environmental buffers

1. Dwelling houses must be located at least a minimum of 20 metres from established native vegetation and environmental protection zones. The exact distance must be determined by site specific, assessments particularly in regards to the site slope, drainage catchment patterns, type and condition of vegetation etc.

Environmental repair and enhancement

1. Planting of 900 native plants per dwelling-house or holiday cabin. (Thus, a development comprising six (6) dwelling-houses or holiday cabins would require no fewer than 5400 plantings).
2. All plantings are undertaken in priority areas for environmental repair to ensure the expansion of:
 - a) wildlife corridors and connecting areas between vegetation remnants;
 - b) existing vegetation remnants, habitats for threatened species and plant communities; and
 - c) riparian areas adjoining water courses.
3. A 90% survival rate (of establishment of planted trees), which must be achieved at the end of 2 4 months following the completion of planting activities or at a later date as agreed upon by Council for reasons such as seasonality and/or drought factors. To be considered successful at the time of inspection by Council staff, all tree plantings must have achieved a minimum height of 60 cm and have visual evidence of healthy shoot growth. A Council appointed person may undertake a site assessment at a nominal cost to applicant to determine compliance with this requirement.
4. Council will consider requests to undertake environmental repair and enhancement activities on other rural sites within the Shire, instead of on the land the subject of the application where it can be demonstrated that the land:
 - (i) contains adequate native vegetation cover not threatened by competitive/inhibiting weed or noxious plant invasion; or
 - (ii) is currently zoned as 'Environmental Protection' -7(a), 7(b), 7(k) or 7Q) and requires no further environmental repair and enhancement activities. or
 - (iii) contains existing reforestation works undertaken as part of a long term program and where such works can be substantiated to Council's satisfaction. ornotwithstanding the vegetation attributes of the land, the applicant:
 - (iv) identifies a high priority location preferably in the same local catchment area, requiring urgent environmental repair and enhancement and Council agrees.
5. All plantings are based on locally sourced species.
6. Submission to Council of an **Environmental Enhancement and Management Plan** detailing out the revegetation program and timetable by which the activities will be carried out. The content of the management plan shall include the following:
 - a) the principal aims and objectives of the plan as they relate to the flora and fauna communities and habitat;
 - b) a detailed planting strategy to achieve these aims and objectives and, where applicable, a longer term program for the eradication/management of Camphor Laurels;
 - c) expected completion date for planting activities;
 - d) specific locations, spacing/density, names and mature heights of tree and shrub species to be planted;
 - e) how adequate site preparation, including the clearing of competitive/inhibiting grass and weeds, particularly Camphor-Laurels, will be undertaken within planting areas;
 - f) a species list appropriate to the relevant area;
 - g) irrigation measures and source of water supply should the plantings be undertaken during the drier months .from winter to early summer;
 - h) details of how local species stock will be sourced;
 - i) where there is a need for the sequential staggering of plantings, details of any initial hardy species to be planted at more extreme times (ie. during frost months), including seasonal selection of hardy species (ie. based on temperature and rainfall) and any supplementary plantings which may be necessary to enrich the species mix as well as to cover losses;
 - j) type and quantity of fertiliser (ie. 'slow-release' or others) to be used if required;
 - k) mechanisms to protect plantings from stock (fencing essential) or other browsing animals, where necessary; and
 - l) nature and duration of weed maintenance program to ensure the success of the planting work undertaken.
7. An Environmental Repair Bond or Bank Guarantee must be lodged prior to release of Linen Plan (subdivision) or granting of approval (multiple occupancy, holiday cabins). The Bond or Bank Guarantee is to be levied as follows:

Form of rural settlement Bond or Bank

Bond or Bank Gaurantee Levy

Rural Community Title & Rural Landsharing \$4,500 per 'dwelling-house' (Multiple Occupancy) Communities

Rural Tourist Facilities \$4,500 per 'holiday cabin'

The Bond/Bank Guarantee will be released upon achieving a 90% establishment rate

in accordance with the planting requirements of the guidelines above. A Bond is the lodgement of the monies upfront while the Bank Guarantee is formal advice from a Bank that monies can be paid. The Bank Guarantee does not make the payment but provides the security that the payment will be made if required. .

Where a 90% establishment rate is not achieved within three (3) years following the completion of planting activities, Council will appoint a suitably qualified person to complete the reforestation works to be funded from the applicant's bond or bank guarantee.

Applicants for staged developments are to submit details of the staging of associated revegetation works. Council will not grant consent to subsequent stages until the planting requirements set out in guidelines have been satisfied for all earlier stages completed.

Whilst Council encourages planting activities undertaken for the purpose of plantation forestry such activities will not be considered a substitute for Council's environmental repair requirement applying to rural settlement. Similarly, Council will not regard plantings undertaken for domestic landscaping purposes as fulfilling the environmental repair and enhancement program objectives.

8.3 AESTHETIC DESIGN | SCENIC CHARACTER | ENERGY EFFICIENCY

Guidelines

1. Design must demonstrate how the colour values of built elements have been selected and positioned to complement those of the surrounding landscape. Less reflective, dark coloured or textured surfaces are preferred. While Council supports the concept of choosing colours for energy efficiency, highly reflective colours and surfaces which do not match the surrounding landscape must be substantially screened from view from adjoining properties and/or roads.
2. Suitable colours for:
 - a) Roofs are slate, deep grey, deep brown, deep olive and varying shades of green according to the natural surroundings.
 - b) Walls: where dwelling-houses are substantially screened by the topography or by thick vegetation, colours can be stronger and lighter to reflect heat. Where there is little existing vegetation screening and housing is highly visible from main roads, scenic points or other housing areas, the most appropriate colours are recessive (i.e. colours which blend with the landscape). Suitable earth tone colours include browns, greys, grey pink, dark beige, and varying shades of greens.
3. With due regard to bush fire hazard risk management, dense vegetation screening should be placed where structures to be erected are likely to be in visual contrast (i.e. intrusive) to the surrounding area's dominant landscape features and/or visual amenity.
4. Placement and design of dwelling-houses, holiday cabins and other structures associated with rural settlement should not interrupt the skyline of any major ridges when viewed from main roads, public reserves, scenic points or other housing areas. All development is to remain below the natural tree line and step with the hill's slope. The erection of dwelling-houses, holiday cabins and other structures along prominent knolls or ridgelines, or any visual obstruction of the natural ridgeline, or the removal of tree line vegetation for development is strongly controlled by the Byron LEP 1988 and the Byron Tree Preservation Order.
5. Council will not consent to the, erection of a building including a dwelling-house, holiday cabin or the carrying out of other development on or near any ridgeline on land to which this Strategy applies unless no alternative location for the building or other development is available, in which case the following objectives to lessen the impact will be considered before consent is granted:
 - a) whether there will be adequate existing or proposed landscaping, trees or other vegetation which assist or are likely to assist in mitigating visual impact; and
 - bl whether the proposed building design elements, materials of construction and proposed colours will mitigate potential adverse visual impact, including the reflectivity of materials to be used.
6. An **energy efficiency site analysis report** is to be provided showing how the proposed overall site layout and the dwelling-houses are designed to gain optimum solar access to all dwelling-houses, taking into account site topography lot size and shape, drainage, views, dwelling-house design and building materials.

8.4 WATER AND RIPARIAN MANAGEMENT

Guidelines

1. A **Water Management Plan** is required addressing the following:
 - a) location, source and capacity of water supply for domestic, agricultural and fire prevention uses. A potable water supply of 30 kilolitres per annum per holiday cabin, and 80 kilolitres per annum for a dwelling-house is the minimum standard
 - b) how subdivision size, allotment layout, dwelling-house and/or holiday cabin location will protect drainage lines and water courses;
 - c) where a reliable dam supply is necessary to satisfy irrigation and stock requirements, that a quantifiable criteria of water catchment area has been established based on rainfall data, runoff data, expected consumption and a connecting formulae. For any new dam proposals where dam volume is to exceed 7 megalitres, an application to the Department of Land & Water Conservation for a license is required;
 - d) that there is sufficient roof area and tank storage capacity to provide for all domestic water requirements. Water tank storage for domestic use should be a minimum of 44,000 litres (10,000 gal) storage per 1or2 bedroom dwelling-house and 66,000 litres (15,000 gal) for 3 or 4 bedroom dwelling-house and 22,000 litres (5,000 gal) per holiday cabin; and
 - e) adequate water conservation measures (dual flush toilets, aerated shower roses and bathroom

taps, water reuse, etc.) to be implemented as part of the development.

2. **An assessment of the impact on groundwater and surface water** according to the KSW State Groundwater Policy and Framework Document 1997.
3. All rural settlement and tourism in medium bushfire areas are required to have land set aside and developed specifically for emergency water supply tanks (or dams) and equipment. The appropriate capacity of the reserves contained in these areas and the most effective method of water supply delivery (eg. gravity-fed, pump(s) with generator) will be determined by Council's Fire Control Officer (also refer to Section 8.5: Bushfire hazard mitigation).
4. The design of the allotment layout for Rural Community Title Settlement must not increase the number of land parcels which enjoy riparian rights., riparian lots must be retained as community lands and ensure public access. Further, no easements to provide sole and private access to water sources are to be created.
5. Multiple use of dams and pumps to supply water for any purpose must be authorised under the provisions of the Water Act.
6. All dwelling-houses and holiday cabins must be sited at least 50 m from a flood line of any natural waterbody or wetland.

8.5 BUSHFIRE HAZARD MITIGATION

Guidelines

1. In medium risk zones a minimum storage capacity of 44,000 litres per dwelling-house or depending on building materials and the Council's Fire Control Officers advice, and 10,000 litres per holiday cabin or depending on building materials and the Council's Fire Control Officer's advice, must be provided for fire use only and must be maintained at all times. This tank should be located in a convenient position depending on whether it is filled from dwelling-house run-off or pumped from another source.
2. Where dwelling-houses and holiday cabins are situated close to dense undergrowth, trees or shrubs, an external sprinkler system should be provided as part of the fire protection plan for the property. An independent water supply or storage capacity of at least 44,000 litres per dwelling-house and 10,000 litres per holiday cabin must be provided for fire use only and must be maintained at all times.
3. All rural settlement and holiday cabins in medium fire hazard areas are required to be in a 'clustered settlement pattern' (unless a dispersed arrangement can be demonstrated to be an ecologically superior solution) and have sufficient land set aside and reserved for emergency water supply tanks and equipment.
4. Each dwelling-house and holiday cabin must have an area of at least 20 metres in width (low risk areas) surrounding it to be kept clear of flammable material (eg. fallen leaves, bark or twigs). Inflammable ground fuels should be removed regularly and combustible ground fuels must not exceed 0.5 kg per square metre. These radiation zones, however, may contain either cultivated garden and/or fire retardant species. A list of such species is contained in Parr. H -Landscaping section of the Byron DCP No. 1.
5. **A Fire Management Plan** under the provisions of the Bush Fire Act, 1997 is required for all new rural settlement and tourism located in medium hazard areas. The management plan must address the following issues:
 - a) fire fighting facilities and equipment to be provided;
 - b) comprehensive fire evacuation plan;
 - c) landscaping fire protection breaks, radiation zones and controlled burning;
 - d) access for emergency vehicles and overall site layout to fire fighting facilities; and
 - e) internal organisational and consultation processes (eg local brigades and Council's Fire Control Officer).
6. Where the rural settlement or holiday cabins adjoin Crown Land, National Park or Nature Reserve, any fire buffer must be established entirely within the freehold property.

8.6 IMPACTS ON AND BUFFERS TO AGRICULTURAL, HORTICULTURAL AND EXTRACTIVE ACTIVITIES

Guidelines

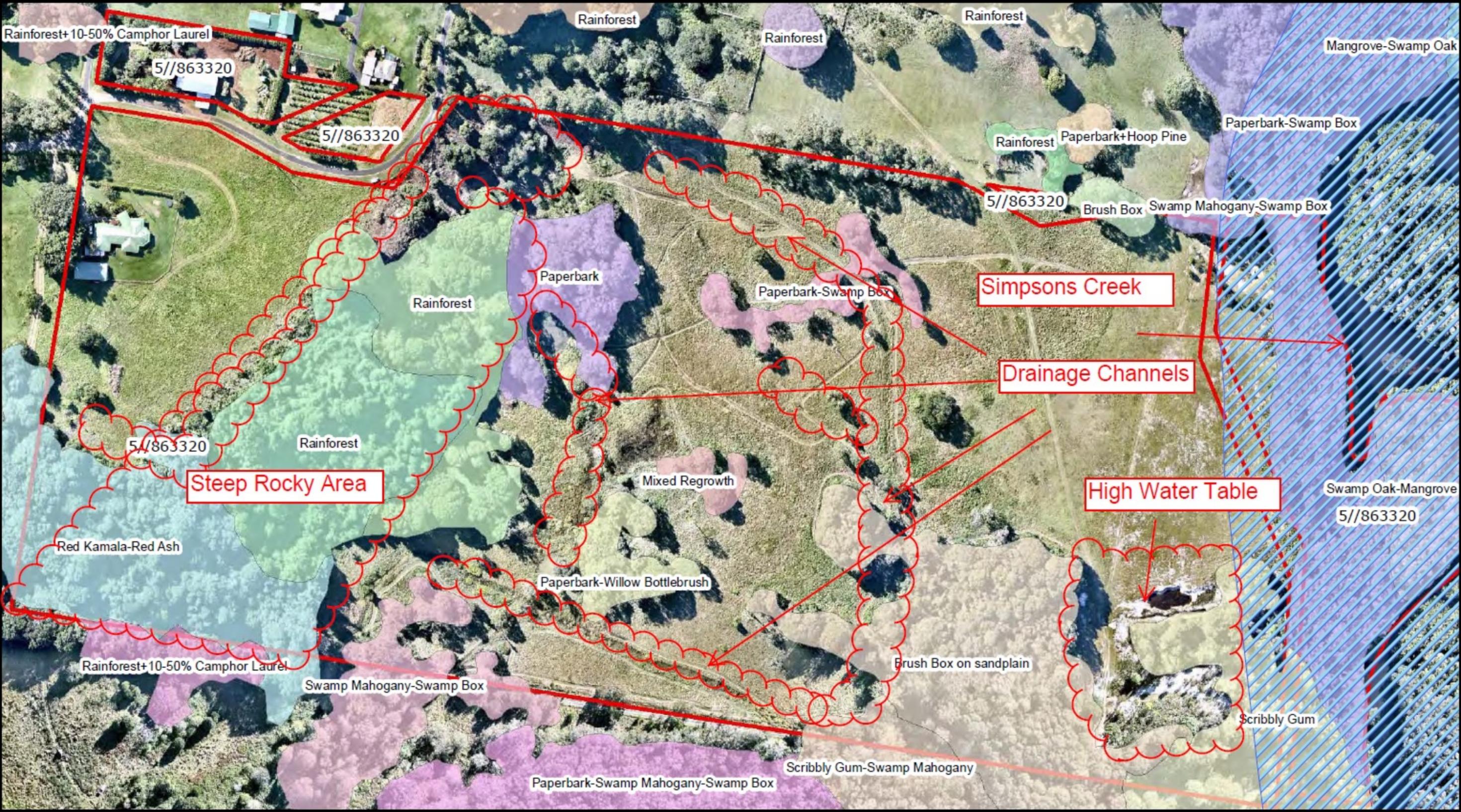
1. The following minimum separation distances apply to future rural settlement:

Adjoining land use	Separation distance (m)

Intensive horticulture (fruits, nuts, vegetables, flowers, herbs, sugar, soybeans, bananas etc.)	500m
Cattle dips	200m
Dairy and poultry farms	300m
Extractive industries	1000m
Garbage tips	500m
Piggeries ~ small (< 10000 pigs)	1000m
113rge <> 10000 pigs)	2000m
Sewage treatment works	400m

Actual separation distances may vary as a function of local site characteristics such as slope, vegetation cover, localised meteorological conditions and the existence of other similar activities within the area. Ultimately, the need to apply greater minimum buffers than those shown above will be determined by the results of a detailed site assessment .	
2. Buffers should be measured from potential intensive horticulture or agriculture areas.
3. For contaminated soils, the DIPMAC Guidelines to assist Local Government in Assessing Development within 200 metres of Cattle Tick Dip Site and the Draft Planning Guidelines for Contaminated Land by DUAP and EPA apply.
4. The precise distance, location and design of a buffer and/or separation arrangement should be based on site specific factors and local conditions - refer to Planning Guidelines for separating Agricultural and Residential Land Uses Department of Natural Resources and Department of Local Government and Planning, Queensland and Soil Landscape Data held by the Department of Land and Water Conservation, NSW.
5. Where there is likely to be a conflict with an existing or likely future adjoining land uses, it will be the responsibility of the new development to provide the required buffer areas.

Photos of unauthorised outdoor recreational facility and composting toilet beside Simpsons Creek



SEPP 14

