From:
 byroneforms

 To:
 council

 Subject:
 10.2021.5.1

**Date:** Monday, 25 January 2021 12:58:13 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-381

**DA number: 10.2021.5.1** 

Subject address: 75 Rifle Range Rd Bangalow

Application type: Other

Other details: Proposed tourist facility

**Grounds:** The proposal of an additional dwelling house added to the existing tourist facility will result in an increase of traffic on an already pot-holed, dirt road. As a resident of this end of Rifle Range Rd, I advise that the remaining 50 metres of ungraded road on the approach to 75 Rifle Range Rd should be bitumen sealed to reduce further road damage and to help traffic flow.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	

 Subject:
 10.2021.5.1 - Submission of Object - I

 Date:
 Wednesday, 27 January 2021 1:29:40 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-386

**DA number: 10.2021.5.1** 

Subject address: Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: Destruction and disturbance of zkoala habitat.

Applicant name:

Contact phone:

Contact email address:

Contact address:

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Wednesday, 27 January 2021 1:59:44 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-387

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range rd Bangalow

Application type: Object

Other details:

**Grounds:** This property sits within koala corridor and habitat zone which surrounds BANGALOW. The alterations described in the DA will bring traffic closer to koala trees and certainly increase the injury and kill rate of koalas in this area. Koalas use the camphors for shade and use eucalypts for food trees. Any development bringing traffic closer to existing koala habitat and increasing conflict between cars and koalas must go against Byron Shire koala protection principles. The driveway and any tree removal must be redesigned with koalas in mind.

Applicant name:	
Contact phone:	
address	:
Contact address:	

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Wednesday, 27 January 2021 4:29:45 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-388

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

**Grounds:** This proposal will have enormous impact on the koalas in Bangalow and the koala corridors that have been established. While the camphors may be considered unfavourable for the region the koalas have been observed using these trees to move throughout the property and between planted corridors of trees. The proposed new driveway runs right alongside the edge of koala habitat trees and the driveway will cause a barrier for safe crossing by the koalas and sever the corridor which is of high importance. The new DCP adopted by Byron Council states a 20 meter buffer for koala trees and this is one element of this DA that is not addressed. The widening of rifle range rd will undoubtedly lead to increased traffic speed and with proposed additional holiday accomodations more traffic will travel along this sensitive area.

Applicant name:	
Contact phone:	
Contact address:	

Subject: 10.2021.8,1 - Submission of Object - Date: Thursday, 28 January 2021 2:30:34 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-395

**DA number:** 10.2021.8,1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** The development will encroach on Koala habitat corridor. The development will will cause removal of vital habitat needed by Bangalow Koalas to survive causing decimation to the population of koalas. Given that koala populations are in a massive decline in N.S.W and elsewhere in Australia it is the responsibility of governments ..and local government departments to protect our remaining koalas fro further decline. In addition , it seems this development is for a tourist business that would depend on people interested in visiting our unique bush and wildlife to make it a viable concern for the owners. Surely, it doesn't make sense to financially or ethically to kill wildlife in this area where tourist initiatives are being developed. Perhaps sensible aalternatives can be found for the development without effecting koala populations.

Applicant name:

Contact phone:

Contact email address:

Contact address:

Subject: 10.2021.5.1 - Submission of Object 
Date: Thursday, 28 January 2021 6:00:29 AM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-389

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

Grounds: 1. It'll put a hole thru the already narrow Koala Wildlife Corridor. 2. No 20

metre buffer zone to Koala Wildlife Corridor.

Applicant name:

Contact phone:

Contact email address:

Contact address:

From:

To: counci

Subject: RE UNNACEPTABLE PROPOSAL FOR DA....... ON 75 RIFLE RANGE RD IN KOALA HABITAT

Date: Thursday, 28 January 2021 11:30:39 AM Attachments: 75 Rifle Range Rd lindy submission.docx

### Dear Byron Councillors,

Please see attachment in relation to proposed DA on 75 Rifle Range Rd Bangalow. I am a local resident & am strongly opposed to this DA proposal, in prime Koala habitat.

Dear Byron Council members,

#### Re SUBMISSION ON 75 RIFLE RANGE ROAD, BANGALOW

#### DA 10.2021.5.1

I am a local resident & live not far from Rifle Range Rd. I was horrified to learn of this proposed development within a well recognized KOALA CORRIDOR. I know this area to be a significant habitat for Koalas as I am registered Koala rescuer (FOK) & have volunteered to plant Koala trees along this very stretch of road. We witness Koalas here on a regular basis and THIS was the reason we have worked incredibly hard to plant additional native Koala preferred trees, right along this stretch of road. One may ask why did we bother? Byron Council has a reputation for actually caring about its natural environment (what's left of it) and most importantly trying to conserve our rapidly dwindling Koala populations.

Your decision to permit a residentially zoned area to a tourist zone in a rural area MUST NOT BE APPROVED. Your reputation is soon to be destroyed as a progressive environmentally concerned & proactive Council. I am deeply upset in relation to this proposal, having been intimately involved in the planting of Koala trees in this very spot, to increase the chances of Koala survival. Their chances of now surviving will be nil, IF you permit this road extension. Many more Koalas have been seen on Rifle Range Rd, over the past few years due to OUR tree planting efforts, in an attempt to expand this vital wildlife corridor.

My community is also deeply upset as I personally know many other locals who have worked hard planting Koala trees over the years , then like myself with family members & friends gone back to water these trees over many months & years. To think that all of this will be in vain is unacceptable. If we can't protect this small stretch of residential road, where Kolas already exist then their future survival is hopeless. The human residents along Rifle Range Rd also are against this DA. BUT more importantly Koala's are endangered not human populations & certainly not along Rifle Range Rd. Our local community has a strong connection to our declining Koala populations & we work tirelessly as volunteers to ensure Koalas have SOME chance of survival. IF BYRON COUNCIL SERIOSULY HAS A COMMITMENT TO THE SURVIVAL OF KOALAS WE SUGGEST YOU ACT NOW TO PREVENT ANY DEVLOPMENT OF THIS KIND WHERE KOALAS OR KOALA HABITAT OCCURS. In fact we don't only suggest it ,we demand that you Act on behalf of the Koalas & not vested interest. We all need to be planting more trees along this significant corridor , which means this DA MUST NOT BE ALLOWED TO PROCEED.

#### **Development Application Form DA 10.2021.5.1**

Several errors in development application form

- Site recorded as in Land Zone RUS2 Rural Landscape. Is actually RU1 Primary Production
- Says no new road proposed but existing Rifle Range Road to be widened near entrance and new internal access road constructed.
- Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat?
   Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP.
- Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road.
- Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist

accommodation as evidenced on numerous accommodation websites (Trip adviser; booking.com; Airbnb; Instagram; wotif, etc.).

#### Site Information

In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site". This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map.

The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected **in perpetuity** by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

"You may be lucky enough to come across some of our wildlife. As well as the glorious
native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of
our much loved residents".

There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north.

As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat':

"an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population."

No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points:

- The site was not mapped as koala habitat on the council website;
- There were no records of koala sightings on the development site;

 Koala food trees made up less than 15% of the site's native vegetation. Potential Impacts on Koalas

P.27 . Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected **in perpetuity** as a wildlife corridor under planning conditions.

Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building.

As well as the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees.

The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance.

The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road.

The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although non-native, the removal of these trees also has the potential to impact on koalas through potential injury if trees are

removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas.

### Byron DCP. Chapter B1. Biodiversity

The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as:

"an area of land with high biodiversity conservation value which should be excluded from any development envelope'"

and, in this instance, requires a minimum 20m ecological setback.

In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected.

Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must:

- clearly demonstrate the variation sought;
- demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided;
- show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter

No such variation has been identified in the DA.

Koala Habitat, as defined in the DCP, includes:

"Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and

Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

According to the above definition, the development site clearly fits the definition of Koala Habitat.

In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes:

- Establishment of tree protection zones around retained koala use tree species as per the
  Australian Standards (AS 4970-2009 Protection of trees on development sites) before any
  construction or clearing commences and preclusion of any development activities within the
  tree protection zones until after all construction is completed.
- Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from <u>a suitably qualified person.</u>

Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new residence, but there is no mention of koala friendly features for these, although the SEE states that the **existing** swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area.

Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat – while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016).

Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or *red flags* (which is relevant to this DA) may require an ecological assessment. It also states that:

"For development where the proposed development envelope **does** overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required:

- a. A signed statement from a **qualified ecologist** stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including:
  - a. Information to support the conclusion that the proposal does not exceed the BOS threshold; and
  - b. A response to the five part test of significance set out under s7.3(1) of the BC Act.
- b. An ecological assessment or management plan (where applicable) prepared in accordance with the requirements of B.1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans.

There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a **suitably qualified ecologist.** A Koala Management Plan should also be prepared for the site.

### **Additional Concerns**

In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals,

The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by neighbours and two recent accommodation reviews refer to a dog on site:

- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first
  anniversary in Australia with our children at a villa. As everybody says, Kahn is an
  extraordinary host. He taught our younger son how to build a fire and let him play with the
  dog the entire evening......"
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......."

Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars.

The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals.

To make even more of a mockery of Byron's planning procedure, the current DA includes a 'change of use' from a residence to a tourist facility. Even though the consultation period is not yet over, let alone the DA being determined, a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for many months. A quick visit to the site on Friday 22<sup>nd</sup> January 2021 also revealed that the new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

We object strongly to these development proposals, both due to the lack of data required for a thorough assessment to be made of the potential impacts,

Yours Sincerely with deep concern

From:
To: council

**Subject:** Submission for application (10.2021.5.1) **Date:** Thursday, 28 January 2021 12:08:37 PM

You must stop this development immediately. Koalas live there, they are endangered and have been through enough as it is eg mass culling back in another century they never recovered from as well as bushfires drought and the biggest threat of all loss of habitat from us humans.

Sent from my iPhone

From: byroneforms
To: council

 Subject:
 DA 10.2021.5.1 - - Submission of Object

 Date:
 Thursday, 28 January 2021 1:30:21 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-394

**DA number:** DA 10.2021.5.1 -

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

Grounds: There are koalas known to use the trees on this land and is part of a Koala

corridor

Applicant name:

**Contact phone:** 

Contact email address:

**Contact address:** 

From: council

**Subject:** Submission for application (10.2021.5.1) **Date:** Submission for application (10.2021.5.1) Thursday, 28 January 2021 2:49:53 PM

This should not be allowed to progress as it is destroying koala habitat..we are at at 5 minutes to midnight before losing these unique animals forever. The money that was raised by the international community after the bushfires to save these animals speaks for itself..

Do not allow this to happen..environmental conscience over dollars!! Do the right thing..please.

Subject: DA 10.2021.5.1 - Submission of Object - Date: Thursday, 28 January 2021 3:00:26 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-398

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Rd, Bangalow

Application type: Object

Other details:

Grounds: Destruction of koala habitat.

Applicant na

Contact phone:

Contact email address:

Subject: 2021.5.1-75 - Submission of Object -

**Date:** Thursday, 28 January 2021 3:00:26 PM

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-399

**DA number: 2021.5.1-75** 

Subject address: Rifle Range Rd Bangalow

Application type: Object

Other details:

**Grounds:** To whom it may concern: I am lodging an objection to DA 20.2021.5.1-75 Rifle Range Rd, Bangalow. It is outrageous that protected koala habitats are being destroyed at this address. Please act on this complaint. Kind wishes, Heather Hyde.

Applicant name:

**Contact phone:** 

Contact email address:

NSW

From: byroneforms To: council

10.2021.5.1 - Submission of Object Subject: Thursday, 28 January 2021 3:00:26 PM Date:

Attachments:

BSC-005-396-ALA Occurrence ima 75RifleRangeRd.jpg BSC-005-396-ALA Occurrence record 75RifleRangeRd.jpg.png

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-396

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

**Application type:** Object

Other details:

Grounds: The proposed works will destroy habitat trees for the local koala population as well as create a safety risk by inserting a vehicle right-of-way through their habitat area. The assertion that this site is not koala habitat is in fact false. A search of Atlas of Living Australia records for this specific property (using KML polygon of the property) finds records of koala sightings on the property within the last 2 years. The proposed development should not be supported as it is non-essential and presents a real risk of harm to the dwindling local koala population. At the minimum, a full ecological survey and site assessment, and appropriate modifications to proposed vehicle access should be required.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	



# Images from occurrence records

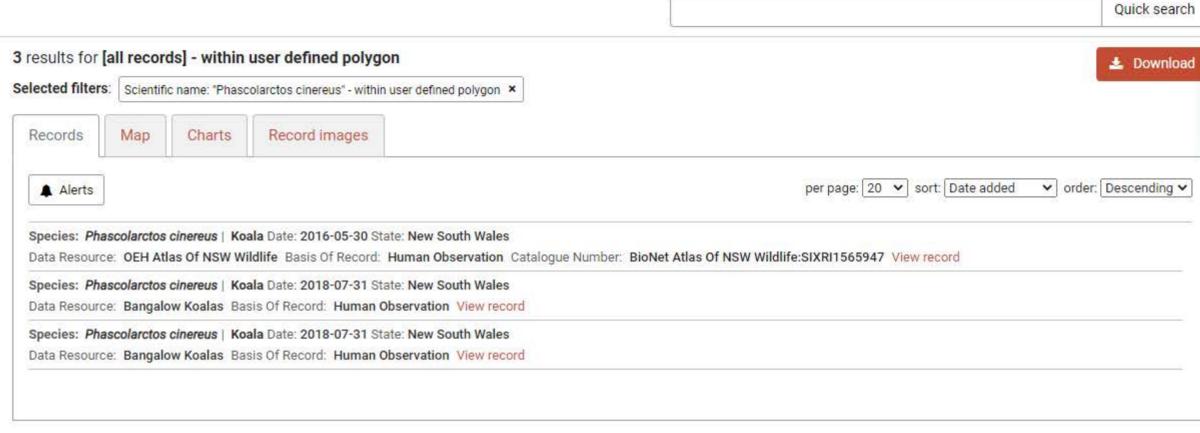


# Occurrence records

State or Territory

New South Wales (3)

Customise filters Narrow your results Selected filters Scientific name: "Phascolarctos cinereus" - within user defined polygon → Taxon Family ☐ Phascolarctidae (3) Lifeform ☐ Animals (3) ☐ Mammals (3) ichoose more... Common name (processed) ☐ Koala (3) Occurrence Location



From: byroneforms
To: council

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Thursday, 28 January 2021 3:30:28 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-400

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** This land includes an area of Koala habitat, including breeding females and joeys. Bangalow Koalas have rescued them from this area in the past and report frequent sightings on this land. The proposed driveway will effectively cause a barrier for koalas to cross safely. It is very concerning to know that the land is currently being cleared of trees illegally.

Applicant name:

Contact phone:

Contact email address:

Contact address:

From: Celine Massa
To: council

Subject: Fwd: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

**Date:** Thursday, 28 January 2021 4:53:44 PM

Dear Byron Shire Council,

I am writing to you in regards to a D.A. on exhibition at the above address.

I am seriously concerned with the potential effects of the this D.A. on the local wildlife, in particular to koalas seen on the property.

Please take the wildlife into consideration when deciding to approve this D.A. We have done enough destruction on nature. We don't need to add to the toll.

Thank you in advance.

Warm greetings,

From: byroneforms
To: council

Subject: DP 625255 - Submission of Object - Date: Thursday, 28 January 2021 5:00:29

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-404

**DA number: DP 625255** 

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

**Grounds:** NSW needs all the KOALA habitat it has , and much much more . This development will destroy vital KOALA habitat which is detrimental to the survival of our KOALAS . Much more money can be made in Byron Shire by promoting your health KOALA habitat , than by destroying that area , tourists will visit if they know that they will see a KOALA in the wild . Please do not allow any development in KOALA habitat .

Applicant name:

Contact phone:

Contact email address:

Contact address:

From: byroneforms To: council

10.2021.5.1 - Submission of Object -Subject: Thursday, 28 January 2021 6:00:33 PM Date:

Attachments: BSC-005-405-Screen Shot 2021-01-28 at 5.52.30 pm.png

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-405

**DA number: 10.2021.5.1** 

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: I am concerned that the application states no koala's present which is not true... and also very concerned that works have commenced while the application is listed as pending,

Please advise action being taken by council to urgently address the commencement of works and also checking of the state of the koala population in the area. Thank you, Tamara

Applicant name

Contact phone:

Contact email address:



From: council

Subject: DA 10.2021.5.1-75 Rifle Range Road Bangalow Date: DA 10.2021.5.1-75 Rifle Range Road Bangalow Thursday, 28 January 2021 7:16:03 PM

Dear Sir / Madame,

It has reached us at France there is felling of trees in a Koala corridor on a developers property.

The international community paid alot of money in donations to save your forests snd koalas.

We call on you to immediately stop any further destruction to the environment and Koala homes.

Bien Cordialement

Sent from my iPhone

From:
To: council

Subject: URGENT - DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow NSW

**Date:** Thursday, 28 January 2021 7:25:32 PM

### To Whom It May Concern at Byron Bay Council

This DA must not be approved, I believe this DA will indeed negatively impact our important koala population and this vital link in the corridor.

The proposed DA wishes to move existing driveway and build a new house, effectively allowing the existing dwelling to become more tourist accommodation and placing the new driveway right beside established and planted koala habitat... a recipe for disaster for koalas which utilise these trees and use the property to transverse the landscape.

The camphors on both sides of the dirt part of Rifle Range Rd road are utilised by koalas and thus deemed koala use tree. Koalas have been rescued here previously and on the proponent's side of the road. Sick koalas have been seen in camphors as well as breeding females and mothers and joeys right along this section of road and in particular the section near the existing driveway. Koalas also utilise habitat on the property as well as traverse the landscape across the property.

The camphors and the koala trees along this part of the dirt road act as part of the movement corridor and proponent has already removed camphors along his boundary line thereby severing a section.

The proposed new driveway runs right along the edge of koala habitat trees on proponent's property which as part of first DA more koala and rainforest trees have been planted. Koalas utilise these established trees and to propose a driveway running along them will cause a barrier for koalas to safely cross the natural landscape and sever this important corridor.

The new DCP adopted by Byron Council in December 2020 has a 20 metre buffer for koala trees – this is just one element the DA fails to address.

As part of previous DA restriction on the use of land, pursuant to the provisions of S.88E of the Conveyancing Act 1919, has been placed on the title of the land, that subject of this consent, stating:

No works or activities shall be carried out on the burdened land that has a negative impact on the koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1

There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north.

As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat':

"an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population."

Several errors in development application form

- Site recorded as in Land Zone RUS2 Rural Landscape. Is actually RU1 Primary Production
- Says no new road proposed but existing Rifle Range Road to be widened near entrance and new internal access road constructed.
- Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP.
- Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road.
- Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist accommodation as evidenced on numerous accommodation websites (Trip adviser; <a href="booking.com">booking.com</a>; Airbnb; Instagram; wotif, etc.).

The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected **in perpetuity** by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

• "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of our much loved residents".

A quick visit to the site on Friday 22<sup>nd</sup> January 2021 also revealed that the new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

We object strongly to these development proposals, both due to the lack of data required for a thorough assessment to be made of the potential impacts, a

Please do not allow the destruction of this core koala corridor, the koalas in this area need these corridors to survive.

Regards

Ange Cranson

From:

To: council; Cr. Simon Richardson; Cr. Michael Lyon; Cr. Alan Hunter; submission@byron.nsw.gov.au; Cr.

Jeannette Martin

Subject: DA 10.2021.5.1-75 Rifle Range Rd, Bangalow Date: Thursday, 28 January 2021 7:50:36 PM

Importance: High

### Dear All,

I'm writing to you because I'm apalled about clearing trees koalas at 75 Rifle Range Rd. Despite a stop work order issued today and delivered by hand the carnage continues today.!

I ask you to stop immediately clearing trees because there are koalas! Koalas live there and you cannot allow the destruction of thetrees. Koalas frequent the camphors running along this section. Koalas are often seen on property, including breeding females and mothers and joeys.! The proposed driveway will run along the existing koala habitat and planted koala habitat on his property - effectively causing a barrier for koalas to safely cross.

Koala is your icon and you have to protect.

When Aussie Icon the koala are gone no turning the clock back!

I ask to stop

immediately clearing trees.

The world is watching.

Your sincerely,

From:

10.2021.5.1 - Submission of Object -Subject: Thursday, 28 January 2021 8:30:36 PM Date:

Importance:

## **Development Application - Submission notification**

Submission ID: BSC-005-406

**DA number: 10.2021.5.1** 

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: I object simply because it is koala habitat. Council has made a big mistake by allowing tourist cabins in our Shire it is enabling developers to destroy habitat in order to make more money, long time residents are here because it is beautiful and because of the environment the majority of these tourist facility da's are destroying amenity, habitat and the environment not to mention pushing the he long time residents away from the Shire as the area is becoming unrecognisable surely anything that interferes with koala habitat shouldn't even be putting forward a DA especially in our environmentally sensitive area no more habitat destruction

Applicant name: Contact phone: Contact email address: Contact address:

From: To: council

Subject: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow Thursday, 28 January 2021 8:50:19 PM Date:

### Good Afternoon,

> I have just read an article about a new drive way being laid out through a koala corridor and that work has started before the application has been approved.

> With the loss of so many koalas last year I strongly object to this application being approved due to how precious koala habitats and koalas are to all of us right now.

> Could you please reconsider the approval of this application and I look forward to hearing that nature won for a change.



> Sent from my iPhone

From:

To: council

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow. **Date:** Thursday, 28 January 2021 10:19:14 PM

To whom it may concern,

I'm writing regarding the DA currently with Council for 75 Rifle Range Road.

I am a previous home owner in that area and used to frequent that road with my daughter to spot koalas nearly every day. We would see one 9 out of 10 times.

I can see that the DA requires tree removal and the widening of the road.

This area is a precious and rare koala corridor and I would argue that any road works such as widening of the road, removal of camphor laurels (which are a koala habitat tree) would be detrimental to the dwindling koala population in that area.

I also understand that illegal removal of trees has already begun on council land on Rifle Range Road.

Please note my objection to DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow.



From: byroneforms
To: council

Subject: DA 10.2021.5.1 - Submission of Object - Date: Thursday, 28 January 2021 11:00:42 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-409

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Rd, Bangalow

Application type: Object

Other details:

In respect of this Development Application (DA 10.2021.5.1 - 75) at Rifle Range Rd Bangalow it has apparently been claimed that there are no koalas on property. However, a wildlife group claim to have trapped and rescued a koala on the council verge and also state that koalas frequent the camphors running along the section of land currently the subject of the DA. Locals also claim koalas are often seen on property, including breeding females with joeys. It is also claimed that the applicants have, or have ordered, earthmoving equipment to begin removing vegetation along the proposed driveway before the application is even processed. If so, surely fines and penalties should apply, in addition to pursuing any breaches of wildlife protection and conservation legislation.

Applicant name:

Contact phone:

Contact email address:

From: council

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow **Date:** Thursday, 28 January 2021 11:00:46 PM

Dear Team,

We have been informed by Bangalow Koalas of the environmental vandalism and destruction of Koala trees at 75 Rifle range Road. It's really sad to hear this news, and our beloved Koalas around Bangalow are losing their homes

I kindly request you, on behalf of all the sad Australians who love Koalas from the bottom of their hearts, to stop working order and to bring about a breach of order for those who cut trees. After looking at photos and videos, we're really depressed and sad to hear a lot of trees down there for development in our Koala corridor.

Please action URGENTLY.

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object - Date: Thursday, 28 January 2021 11:30:41 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-411

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: This property already has a house with pool and tourist cabins. The owners are meant to live in the main house and the tourist cabins are only to be rented, however they rent it all out. This is a quiet Road with a known Koala habitat, and since they opened their tourist accomodation there has been so much more traffic and they speed past our house which is a danger to our young kids, animals and the local wildlife especially Koalas. They kick up dust into our house as they drive to fast, the tourist staying there and tradesman trucks zoom up and down the street. Now we hear they want to build another house?? But they already have one and the reason they could build the tourist cabins was if they lived in the main house and not rent it out??

street. How? Why? They are obviously trying to build more and more tourist accommodation and our road can not handle any more cars and trucks speeding past. It is dangerous and someone is going to get hurt as the road just isn't big enough.

**Applicant name:** Bobbie Field

Contact phone:

Contact email address:

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object - Susan Lee
Date: Thursday, 28 January 2021 11:30:41 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-410

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** As a resident of Tristania st for the last 23 years which is a cross road of Rifle range rd I have on many occassions seen koalas in the trees at the end of Rifle Range Road. No Koalas on property!, are you kidding. Bangalow koalas under the leadership of Linda Sparrow have been working tirelessly to increase the koala corridor for our dwindling local koala population. I know they have rescued koalas on Rifle range road and and erected signs to warn motorists of their presence in this area. Trees are being cleared that are a vital part of a safe corridor. I find this unbelievable, right in the eyesight of the koala crossing signs. Surely the protection of our koalas outweighs the need of more large accommodation facilities.

Applicant name: Susan Lee

Contact phone:

Contact email address:

Contact address:

From:

To: council

Subject: Koala"s Need Help

**Date:** Sunday, 31 January 2021 10:57:05 PM

Please, don't let top of Rifle Range Rd in Bangalow be destroyed and affect Koala's !! I have been keeping up with this story and that are Koala's are in this area and they need to be protected!!

Please stopy the destruction of Rifle Ridge Rd in Bangalow!!

Australia lost a lot of forest because of the horrific fires last year and thousands of wildlife were lost in these fires. Please think about the wildlife. God created all creatures for a reason and the Koala and the Kangaroo are the Icons of your country!!

Thank You

USA

From: PlanningAlerts

To: Development Support Officer

Subject: Comment on application 13.2017.360.1

Date: Saturday, 30 January 2021 1:00:08 PM

# For the attention of the General Manager / Planning Manager / Planning Department

Application 13.2017.360.1

Address 75 Rifle Range Rd, Bangalow 2479 NSW

Description Rural Tourist Accommodation Comprising Four (4) Cabins

Name of commenter
Address of commenter
Email of commenter

### Comment

I have concerns about the impact on endangered animals such as koalas should habitat trees be removed.

This comment was submitted via PlanningAlerts, a free service run by the OpenAustralia Foundation for the public good. View this application on PlanningAlerts



From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Sunday, 31 January 2021 8:32:49 PM

Attachments: BSC-005-424-05801113-F11A-4399-8A6A-E1C4A2AF3B2E.ipeg BSC-005-424-8F91FC90-3520-4B31-9043-1992380D09AB.ipeg

BSC-005-424-EB75CFAB-51C4-4BDD-8F7A-9F657BE6B058.ipeq

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-424

**DA number:** 10.2021.5.1

Subject address: 75 Rifle range Road Bangalow

**Application type:** Object

Other details:

**Grounds:** The line of trees along Rifle Range Road is a corridor for local koalas and there are koalas in those trees. Why are vou allowing trees to be removed when this DA has not even been determined yet?

How have you even allowed this DA to be considered when it seems apparent that there has been no attempt to even consider these koalas.

Applicant name:

Contact phone:

Contact email address:

Contact address:







From:
To: council
Subject: objection

**Date:** Sunday, 31 January 2021 8:02:27 PM

objection for tree removal and development in koala habitat in 75 riffle range rd bangalow please stop this work now

From: council

Subject: Objection to DA 10.2021.5.1 75 Rifle Range Rd Bangalow

**Date:** Sunday, 31 January 2021 7:14:31 PM

Attachments: Objection to DA for 75 Rifle range Rd Bangalow Jan 2021.docx

Dear Byron Councillors and Staff,

#### 31/01/2021

My objection to a Development Application is attached below:

**Application Number: DA 10.2021.5.1** 

Property Address: 75 Rifle range rd, Bangalow

Byron Council has received the above development application. I wish to lodge my objection to this development as per my attached document to this email.

It has been brought to my attention by local residents and my colleagues from Bangalow Koalas that the environmental destruction currently going on at and around 75 Rifle range rd, Bangalow is being currently happening even though the development application is still in its advertising stage. A stop work order has been issued by the council but the property owner has defied the council order and continued removing trees detrimental to all the hard work community members have put in to establish a koala habitat corridor in this area. Your council needs to enforce the stop work notice and issue penalties if the landowner ignores to order has they have currently done.

Rifle Range Road is a significant corridor for the local koalas, even today Sunday 31st January 2021 a koala which has been seen in the camphor trees near where the trees have been removed. Bangalow Koalas have been doing tree planting for 3 years, during drought and sometimes flooding rain. It has been identified as a vital koala habitat, but needing a connecting wildlife corridor. This is why Bangalow Koalas and their dedicated volunteers of which I am one for 2 years, have spent so much time and effort, planting trees in this very location which connects to a reserve.

Byron council has a policy NOT to permit development in any area that is detrimental to koala populations. How many koala homes and food trees need to be destroyed before we say enough is enough?

The property owner runs an AirBnB at the property already now they want to expand and destroy koala homes to further their greedy ambitions.

Surely they understand that they advertise their property as being in a koala corridor and their guests have reported koala sightings on the property near the existing villas. There must be a sensible approach to managing the habitat for the koalas and all the biodiversity of the local area. Byron Council must have a biodiversity policy to manage koala populations and this will be trashed if this development is allowed to go ahead.

I plant trees, thats what I do, we have a healthy colony of koalas here in Lawrence, and through our groups , the Lions Club of Clarence - Environmental , and Clarence Landcare we are working together with Bangalow Koalas and Friends of the Koala in Lismore to plant trees to connect the koala tree corridor in all the Northern Rivers, which ultimately will connect with The Great Koala National Park around Coffs Harbour down to Port Macquarie.

This current development must be stopped in its current form as the property owner has shown they have total disregard for all the work that Bangalow Koalas have done, and they don't respect the laws and the previous development application for this property issued in

### 2017.

I believe this development will impact negatively on the local koala population, the property owners and the consultant they hired have no koala management plan for the development and must not be allowed to proceed.

### Kind Regards



#### **Byron Shire Council**

E: council@byron.nsw.gov.au



Dear Byron Councillors and Staff,

My Objection to a Development Application

Application Number: DA 10.2021.5.1

**Property Address: 75 Rifle Range Road, Bangalow** 

Byron Council have received the above mentioned development application and my submission is an objection to the proposed development.

Firstly I will say that I do not live in the Byron Shire but down to the South in The Clarence Valley. I have been a volunteer tree planter with Bangalow Koalas for quite some time as we have our own colony of koalas in Lawrence and we are planting koala tree corridors in the Clarence Valley as well. I have planted thousands of trees in my lifetime as well as in the Byron Shire with Linda Sparrow and Bangalow Koalas. Our local groups, Lions Club of Clarence – Environmental, and Clarence Landcare are working with Bangalow Koalas to plant trees for koala and wildlife corridors to preserve and protect the biodiversity of the Clarence Valley as well as to halt the decline and help preserve threatened flora and fauna.

#### Issues with this development include:

- 1. Removal of trees on council land without consent and before the DA exhibition period has even ended.
- 2. Work has continued even after councils stop work order was issued, why has no compliance by the land owner been followed up on ?
- 3. DA states there are no koalas on the property, simply NOT TRUE! Koalas are often seen and have been rescued on the owners land, as well as sightings of mothers and joeys right along the section of road to be used as access to this property development. The camphors and trees along this part of the dirt road act as part of the movement corridor and the owner has already began to remove trees along his boundary line. There was a koala sighted today Sunday 31/01/2021 in a camphor tree where the tree removal has been taking place. We have photos. There is no koala management plan for the development, Why not?
- 4. Proposed road will be a barrier to koala movements as well as issues with safety from increased number of vehicles accessing the development.
- 5. Site recorded as in Land Zone RUS2 Rural landscape. Is actually RU1 Primary Production.
- 6. Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? The DA application states no native vegetation will be removed, and previous DA restriction on the use of the land, pursuant to the provisions of S.88E of The Conveyancing Act 1919, has been placed on the title of the land, that subject of this consent, stating: "No works or activities shall be carried out on the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1.
- 7. Application is for a new dwelling and "change of use" of existing dwelling house into a central facility building including bedrooms. The existing dwelling is clearly used as tourist accommodationas evidenced on numerous accommodation websites (Trip advisor, booking.com, AirBnB, Instagram

, wWotif , etc ). Surely the owner would realise the significance to visitors of the importance of enhancing and preserving koala food trees for their guests ?

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and the surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on AirBnB includes mention of the Koala corridor on site as one of the attractions.

Why is there no plan of management for this development for the Koalas?

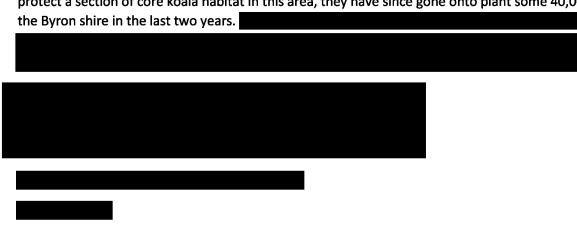
No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment was provided with the previous DA 10.2017.360.1. However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points:

- The site was not mapped as koala habitat on the council website.
- There are no records of koala sightings on the development site.
- Koala food trees made up less than 15% of the site's native vegetation

Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Rd for a new access point to be constructed and a new internal access point to be constructed and a new internal access road which runs directly adjacent to the protected koala corridor. This will result in loss of sections of the protected koala corridor at the new access point from Rifle Range Rd, as well as branches of mature tallowwood koala food trees will need to be lopped to achieve minimum vertical clearance.

The koalas will need to cross these roads which increases their chances of being hit by a car, being there will be an increase in traffic on Rifle Range rd with extra guests entering and leaving the property.

I plant trees! In my lifetime I want to plant one million trees, I object to this development proposal as it will impact on the local koala population, Bangalow Koalas was created from the residents wanting to protect a section of core koala habitat in this area, they have since gone onto plant some 40,000 trees in the Byron shire in the last two years.



From: Yvonne Fessler
To: council

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Road, Bangalow

**Date:** Sunday, 31 January 2021 7:04:06 PM

### Dear Council Members,

I wish to let you all know that I strongly object to the above development to Create a second driveway at the above address.

This driveway, which has already commenced even before the exhibition Period has finished, is right in the middle of a critical link in the koala wildlife Corridor.

This is unacceptable!! Our koalas are already doing it tough and to destroy this Corridor would undoubtedly make it much worse for them.

Please do the right thing and look after our precious koalas and do NOT let this Corridor go ahead.

Thank you for your serious consideration of this matter.

Kind regards,

Sent from my iPad

From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Sunday, 31 January 2021 4:32:43 PM

Importance: Low

### **Development Application - Submission notification**

Submission	ID:	BSC-	-005-	423
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**DA number:** 10.2021.5.1

Subject address:

Application type: Object

Other details:

Grounds: Unacceptable risk to the local koala population and wildlife in general that live at the top of rifle range road. I have lived in Bangalow for over 5 years and have seen copious amounts of Koalas living at the top of Rifle Range Road and love that they are always there, we are so lucky to have them. This area is clearly a suitable habitat for Koalas and a myriad of other fauna and flora and therefore important for the Byron shire and it's residents to protect. Already the land owner has cleared trees from the council roadside in the corridor, where Koalas have been sighted. I was there today inspecting the destruction that has already been undertaken by the land holder and spotted 2 Koalas in the corridor, one of them was within 20 metres of the area that the land owner cleared without proper care taken to protect the local wildlife populations. It makes me wonder how many Koalas, not to mention the myriad of other wildlife that live in the area, ended up in the pile of camphor's that the bulldozer pulled down.

I strongly disagree with this development. I have a video clearly showing a Koala in a camphor tree in close proximity to the clearing that the landowner has already undertaken. Unfortunately the file is too large for me to upload to this submission but I can email it through in support of my claim.

Applicant name:

Contact phone:

Contact email address:

Contact address:

From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Sunday, 31 January 2021 4:32:43 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-422

**DA number:** 10.2021.5.1

Subject address: 75 rifle range road Bangalow

Application type: Object

Other details:

Grounds: First. We object to the illegal removal of trees in a koala zone.

Secondly This is going to be an extended tourist facility so more cars to possibly harm the koalas. Yours faithfully Jennifer regan and john bennett

Applicant name:

Contact phone:

Contact email address:

From: Jess Mester
To: council

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow.

**Date:** Sunday, 31 January 2021 3:13:35 PM

I object to this development proposal - DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow.

I live and see the Koala's in this corridor, on the proposed development site and its surrounding area, every single day. It is not possible for this work to not have a negative impact on the koala habitat despite the incorrect proposal stating it will not. The widening of the section of Rifle Range Road will also result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly seen using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site, despite trying to state there are no koalas to be impacted in this area. The tourist traffic because of the airbnb on this section of Rifle Range road is already too high and I watch these visitors drive above the speed limit during the day and at night all the time. The increase of visitors to the larger site will result in a higher volume of traffic continuing to ignore speed restrictions increasing the risk of koalas being hit and killed by cars. This is dangerous for the koalas and wildlife in this section.

I object

to this development and the negative impact it will have on the koala habitat and the wider community.

Sincerely,

From:
To: council

Subject: Submission RE DA 10.2021.5.1 75 Rifle Range Road, Bangalow

**Date:** Sunday, 31 January 2021 3:03:33 PM

I am writing to object to DA 10.2021.5.1 (75 Rifle Range Road, Bangalow) because of my concern for the koalas in that vicinity.

I am aware that there are koalas on and around that property, so I don't understand why the applicant claims that the proposal will not have "significant impact on threatened species, populations, ecological communities or their habitats" (in answer to one of the questions on the application form). The DA suggests that the development will bring an increase in tourist traffic, and that will pose threats to koalas and other wildlife.

Also, trees are already being removed from the property even though the DA claims that no tree removal or pruning is being proposed and even though Council imposed a Stop Work Order on the developer. This is disturbing and also suggests that tree-dependent wildlife will be affected by the development.

I am very concerned about protecting the koalas in our state and see this development as one more threat to this vulnerable species.



From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object

 Date:
 Sunday, 31 January 2021 3:02:35 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-42	Su	bm	issior	ı ID:	BSC-	005	-421
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**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: I see the Koala's in this corridor, on the proposed development site and its surrounding area, every single day. It is not possible for this work to not have a negative impact on the koala habitat despite the incorrect proposal stating it will not. The widening of the section of Rifle Range Road will also result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly seen using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site, despite trying to state there are no koalas to be impacted in this area. The tourist traffic because of the airbnb on this section of Rifle Range road is already too high and I watch these visitors drive above the speed limit during the day and at night all the time. The increase of visitors to the larger site will result in a higher volume of traffic continuing to ignore speed restrictions increasing the risk of koalas being hit and killed by cars. This is dangerous for the koalas and wildlife in this section.

object to this development and the negative impact it will have on the koala habitat and the wider community.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	

From: council To:

DA 10.2021.5.1 Date: Sunday, 31 January 2021 11:59:15 AM

To whom it may concern.

Subject:

I am writing to express my position to the proposed development at 75 Rifle Range Road.

My understanding is that additional accommodation is planed for the property and that some clearing has been requested and already undertaken. I am and have been a wildlife care for the past 15 years and am concerned that this proposal will adversely effect wildlife and in particular koalas population that are in the area. I would also like to draw the councils attention to the fact that a koala corridor was planted at the end of Rifle Range Rd, just under three years ago and an increase in koalas sightings been reported as a result. I am therefore greatly concerned with regards to increase traffic, loss of habitat and a contradiction of the Councils stated objectives of protecting koala habitat.

#### Respectfully,



From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Sunday, 31 January 2021 11:02:34 AM

Attachments: BSC-005-420-4291274C-5279-4035-82D8-C0688FA4A74C.ipeg BSC-005-420-A42E149B-F970-4110-B321-ADC90553A230.ipeg

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-420

**DA number:** 10.2021.5.1

Subject address: 75 Rifle range road Bangalow

Application type: Object

Other details:

**Grounds:** The direct and increased risk to local koala and other wildlife populations. Considering that the land owner has already removed camphor laurel trees from an important and proven koala habitat (council land out the front of his property) with no ecological importance assessment conducted and very importantly NO KOALA SPOTTER PRESENT when the trees were being pulled down (koalas are regularly spotted in those trees), I do not believe the landowner has the natural environments best interest in mind.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	



www.byron.nsw.gov.au







2.2. Campnor Laurei is listed as a class 4 noxious weed in Byron Snire. There is a legislative requirement under the Noxious Weeds Act 1993 to control the growth and spread of Camphor Laurel in accordance with a management plan published by the local control authority, Far North Coast Weeds.

### 3. POLICY STATEMENTS

# 3.1. General provisions

- a) Large individual specimens (over 1m at breast height) in any urban and village zones are protected by Council's Tree Preservation Order to ensure consideration of heritage and aesthetic values subject to application to remove such trees.
- b) Biodiversity conservation values of Camphor Laurel as per 3.2 are generally associated with significant areas of Camphor Laurel forest and/or where Camphor Laurel is present as riparian vegetation, within a mapped wildlife corridor or forming a vegetated linkage between other retained vegetation.
- c) The presence of Camphor Laurel can promote the dispersal and germination of fleshy fruited rainforest species. The promotion of these rainforest species can aid the transition of non rainforest ecosystems towards becoming rainforest. The regeneration of non rainforest communities should therefore aim to continually suppress camphor invasion and establishment.

### 3.2. Camphor Laurel control for biodiversity conservation

Despite being regarded as a serious weed throughout northern New South Wales, Camphor Laurel is recognised as providing a range of significant biodiversity benefits. This includes as a source of food for some rainforest birds, vegetative cover for large areas of disturbed landscape and provision of dispersal and germination potential for rainforest plant species. Where the land use intent is to remove Camphor Laurel for the purpose of native forest regeneration, land managers are encouraged to use the 'camphor conversion'

#1131653 Page 1 of 3

### Policy – Camphor Laurel Management in Byron Shire

technique in which Camphor Laurels are killed and left to decay in situ while other understorey weeds are systematically controlled (See 3.6 a)).

This technique is recommended in the following areas:

- a) Environmental protection zones
- b) High conservation value vegetation
- Native species associated with the lowland rainforest endangered ecological community
- d) Known or potential threatened plant species locations
- e) Known or potential threatened fauna habitat
- f) Riparian and steep land
- g) Wildlife corridors







products that provide economic and social benefit to the local community.

6 of 6

Significant opportunities exist to facilitate the identification of mutually beneficial opportunities for land managers wishing to remove Camphor Laurel and users of products. Council will facilitate networks between removers and product users that reconcile removal of Camphor Laurel in a manner and scale that is compatible with the conservation of environmental values.

Sustainable use of Camphor Laurel is encouraged within the following parameters:

#1131653 Page 2 of 3

# Policy - Camphor Laurel Management in Byron Shire

- a) Consideration of appropriateness of removal with regard to areas identified above in 3.2.
- Ensure that opportunities for salvage of Camphor Laurel timber resources are promoted in a timely and efficient manner, including those that arise from Council operations
- Removal is carried out to in manner that does not increase degradation of the area (such as increased invasion of Camphor Laurel seedlings and other environmental weeds, damage to native vegetation or increased soil erosion)

# 3.5. Camphor Laurel management on roadsides

Areas of Camphor Laurel within Council managed road reserves are required to be controlled in a manner that ensures road safety, roadside maintenance implications, ecological values and scenic amenity are paid appropriate regard.

These areas are of potential value for economic activities including those specified above in 3.3 and 3.4. Removal of Camphor Laurel from Council managed road reserves is required to be undertaken in accordance with the following:

- Assessment of ecological values by suitably qualified person to identify and locate any threatened plant species;
- b) Control specifications including working near threatened species, effective control methods, maintenance regime/s and stump removal;
- c) Consultation and written confirmation of local residents' agreement to Camphor Laurel removal.
- d) Availability of resources to ensure appropriate capacity to address each of these issues.

### 3.6. Further Readings \*

- a) Kanowski, J. and Catterall, C. P. (2007). Converting stands of camphor laurel to rainforest: What are the costs and outcomes of different control methods? Griffith University, Queensland, Australia. <a href="http://www.griffith.edu.au/">http://www.griffith.edu.au/</a> data/assets/pdf\_file/0006/75786/Camphor-conversion-factsheet-NRCMA-Final.pdf
- b) Neilan, W., Catterall, C.P., Kanowski, J. and McKenna S. (2005). A New role for Weeds in Rainforest Restoration? Rainforest Cooperative Research Centre. <a href="http://www.jcu.edu.au/rainforest/issues/ITFL\_camphor.pdf">http://www.jcu.edu.au/rainforest/issues/ITFL\_camphor.pdf</a>
- c) Scanlon, T. and NSW North Coast Camphor Laurel Taskforce (2000). Camphor Laurel Kit. <a href="http://www.northcoastweeds.org.au/camphorkit.htm">http://www.northcoastweeds.org.au/camphorkit.htm</a>

From: Glenn Christopherson

To: council

Subject: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow.

Date: Saturday, 30 January 2021 6:32:08 PM

This Developer has been caught clearing the site prior to final approval. Nine NBN News covered it tonight.

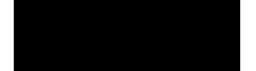
There is already a set of Air BNB style cabins on this property. The Instagram feed for this accommodation (99 Acres) shows picture of Koalas on the property as a drawcord for visitors.

I object to the DA on the basis that it will destroy Koala habitat and block the Koalas existing crossing when they move along their corridors.

I would also like to know what will be done to penalise this Developer for starting work without the necessary approvals? Non-approval of his DA would be a good start.

Regards

How ironic.



### Please accept our Submission regarding DA 10.2021.5.1, 75 Rifle Range Road, Bangalow

We request Byron Council ensures that the landholder complies with the stop work notice

#### **Issues:**

- > Removal of trees on council land without consent and before the DA exhibition period has even ended
- > Work has continued even after Council's Stop Work Order was issued
- > DA states there are no koalas on the property. However koalas are regularly seen on this property.
- > The proposed road will be a barrier to koala movements
- > DA should be refused

Byron Council have a policy NOT to permit development in any area that is detrimental to Koala populations. This area was identified as a vital Koala habitat, needing a connecting wildlife corridor, so Bangalow Koalas & their community volunteers have spent the last 3 years planting Koala trees in this location which connects it to a reserve. There has been a noticable increase of Koala sightings but our concern is that this may have been for nothing if this DA is approved by Council as proposed to rezone from residential to 'tourist'.

Yours Sincerely,



From: To:

Subject: Submissions iconcerning DA 10.2021.5.1, 75 Rifle Range Road, Bangalow

Date: Saturday, 30 January 2021 12:28:06 PM Please accept our Submission regarding.docx Attachments:

Please accept our Submission regarding.docx

Importance: High

### Please accept our Submission regarding DA 10.2021.5.1, 75 Rifle Range Road, Bangalow

We request that Byron Council ensures that the landholder complies with the stop work notice which has been served on him but he has so far ignored.

#### **Issues:**

- > Removal of trees on council land without consent and before the DA exhibition period has even ended
- > Work has continued even after Council's Stop Work Order was issued
- > DA states there are no koalas on the property. However koalas are regularly seen on this property.
- > The proposed road will be a barrier to koala movements
- > DA should be refused

Byron Council have a policy NOT to permit development in any area that is detrimental to Koala populations. This area was identified as a vital Koala habitat, needing a connecting wildlife corridor, so Bangalow Koalas & their community volunteers have spent the last 3 years planting Koala trees in this location which connects it to a reserve. There has been a noticable increase of Koala sightings but our concern is that this may have been for nothing if this DA is approved by Council as proposed to rezone from residential to 'tourist'.

Yours Sincerely,





Virus-free. www.avast.com

From: byroneforms
To: council

Subject: DA 10.2021.5.1-75 RIFLE RD BANGALOW - Submission of Object

Date: Thursday, 28 January 2021 8:30:36 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-407

DA number: DA 10.2021.5.1-75 RIFLE RD BANGALOW

Subject address: 75 RIFLE RANGE ROAD Bangalow

Application type: Object

Other details:

I ask you to stop immediately clearing trees because there are koalas! Koalas live there and you cannot allow the destruction of thetrees. Koalas frequent the camphors running along this section. Koalas are often seen on property, including breeding females and mothers and joeys.! The proposed driveway will run along the existing koala habitat and planted koala habitat on his property - effectively causing a barrier for koalas to safely cross. Koala is your icon and you have to protect. When Aussie Icon the koala are gone no turning the clock back! Stop this greed and cruelty.! I submit my strong objection to DA 10.2021.5.1-75 Rifle Range Rd, Bangalow and I urge you to stop this environmental vandalism and clearing trees.

Grounds: I'm writing to you because I'm apalled about clearing trees koalas at 75

Applicant name:	
Contact phone:	
Contact email ad	dress:

**Contact address:** 

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object 
Date: Thursday, 28 January 2021 9:31:01 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-408

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd, Bangalow

Application type: Object

Other details:

**Grounds:** This DA adversely affects a crucial wildlife corridor with proven koala sightings including breeding koalas and mothers with joeys. Koalas are listed as

threatened and must be protected.

Applicant name:

Contact email address:

**Contact address:** 

From: council

Subject: DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow

**Date:** Friday, 29 January 2021 3:57:22 AM

To whom it may concern I am contacting you regarding the clearance of trees on Rifle Range Rd Bangalow.

Despite a stop work order issued today and delivered by hand removal of trees is still ongoing. People are angry of the loopholes used or the indifference shown that allows occurances like this happening.

Please stop this happening and help protect one of your countries Icons Thank for reading this email.

Get Outlook for Android

From:

To: council

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow.

**Date:** Friday, 29 January 2021 4:54:09 AM

Koalas need to be safely relocated before construction, removal of trees, etc. You need to #SaveTheKoalas, all that it's possible to save. You don't want to let this beautiful, helpless creature be led to extinction. They need to be relocated. They have been seen. They are there. They need to be moved first.

From:

To: council

Subject: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

**Date:** Friday, 29 January 2021 8:42:26 AM

Hi my name is

I am contacting you regarding the development application DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow. This development proposed would greatly effect koala populations in the area including the Bangalow Koalas non for profit organisation. This would be a devastating blow to an already declining population of koalas in Australia and as an Australian born in NSW I strongly object further destruction of Koala habitat. Please limit or remove destructive processes planned and consider the future of Australia's iconic Koala. In addition, government initiatives can pay land owners for conserving biodiversity helping to minimise overhead costs of property purchase and upkeep. Please consider turning the land into conservation land in partnership with the non for profit organisation with financial aid and subsidies from the Australian Government.

From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Friday, 29 January 2021 9:01:07 AM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-412

**DA number: 10.2021.5.1** 

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** I object to this development as it negatively impact our important koala population. It is happening where there have been many sighting of koalas. In an area

that is connected to the Koala Highway.

Applicant name:

Contact phone:

Contact email address:

From:

To: council
Cc: al percival

Subject: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

**Date:** Friday, 29 January 2021 9:10:13 AM

### Dear Byron Council,

I am writing to express my strong opposition to the above planning application, on the basis that it will destroy an important koala corridor. I am also requesting that the current illegal clearing of trees on council land adjacent to the proposed development is stopped immediately and action taken against those responsible.

I am grateful for your help.

Yours sincerely,



From: outlook E466D69F85DD4468@outlook.com

To: council

**Subject:** Concerns for application DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow.

**Date:** Friday, 29 January 2021 11:00:11 AM

With habitat becoming more and more threatened for our wildlife today I believe we need to be more mindful of what it means when removing trees etc. Koalas do have their shelter trees which they need to protect themselves from the elements especially on these really hot days. These trees are not necessarily their food trees it can be camphor or other canopy trees. I have seen evidence that there are koalas living in this area and it is a high value area for our wildlife. The destruction already commenced would have significant impact on the wildlife there. They do not just move away. It would be like removing important rooms from **YOUR** home.

Please consider that allowing for the destruction of this habitat it will cause further demise of our wildlife. I have also seen evidence that the applicant started destroying habitat before permission was granted. Do council normally allow such actions?



Sent from Mail for Windows 10

From: byroneforms
To: council

**Subject:** 10.2021.5.1 - Submission of Object - Lisa Sandstrom

**Date:** Friday, 29 January 2021 11:01:04 AM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-414

**DA number: 10.2021.5.1** 

Subject address: 75 Rifle Range road Bangalow

Application type: Object

Other details:

**Grounds:** This DA is outrageous. This is a well known Koala corridor. My family have many times over the years gone Koala spotting and seen Koalas in the trees up the top of Rifle Range Road. With the fact being Koalas are facing extinction due to loss of habitat, and bushfire fatalities. This driveway will cause a barrier between two planted Koala habitat areas. Even removing the Camphors that the Koalas use for moving through this area is abhorrent. Please refuse this DA and protect our endangered Koalas.

Applicant name:

Contact phone:

Contact email address:

Contact address:

From: council

Subject: DA 10.2021.5.1-75 Rifle Range Rd, Bangalow

**Date:** Friday, 29 January 2021 1:25:39 PM

I am writing to state my objections to the above development application, on which I saw clearing already occurring before consent has been granted.

I walk this area regularly to spot koalas, and cannot understand how the developer can state that their are no koalas present on this property when adults and joeys are to be seen.

The driveway which is proposed runs along their existing habitat on the property, and as this is in the middle of the koala corridor, will prevent them from being able to cross with safety.

Please do not give consent for this DA.

Yours Sincerely,



From:
To: council

**Subject:** OJECTION 10-2021 5.1

**Date:** Friday, 29 January 2021 1:41:30 PM

## Dear Byron Shire

Byron is such a beautiful place and known for its commitment to maintaining its natural environment.

I ask that you do not allow the property owner any permission to fell this koala corridor DA 10 2021.5.1

The time is now to protect the koalas and their habitat. So many young koala trees have been recently planted in Byron, it would be a tragedy to chop down the established ones before the young ones have time to mature.



From: council

Subject: OBJECTION TO DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow

**Date:** Friday, 29 January 2021 4:56:26 PM

### **Dear Council**

Please stop this development proposed in the above DA.

Right in the middle of our koala corridor this development application is in to create a new driveway and widen the dirt road up top of Rifle Range Rd on council land. There is evidence of the developer removing camphors on council land without consent and commencing work even before the exhibition period has finished.

The DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow - states no koalas on property - but there are -koalas have been rescued along the council verge and koalas frequent the camphors running along this section. Koalas are often seen on property, including breeding females and mothers and joeys. The proposed driveway will run along the existing koala habitat and planted koala habitat on his property - effectively causing a barrier for koalas to safely cross.

Please help us stop this DA - to save our koalas ever diminishing habitat. It is your duty and responsibility



To: council

Subject: Objection - DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow

Date: Friday, 29 January 2021 4:12:26 PM

## I strongly object to the proposed DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow

Koalas are in dire straits in NSW due to landclearing and the recent Black Summer Fires. In the past 20 years their numbers on the north coast have plummeted, yet clearing for animal agriculture, logging, mining, and urban development has increased significantly.

Bangalow Koalas have been doing a terrific job with great community effort planting koala food trees to increase habitat and connectivity for the remaining local koalas.

I am horrified to hear that cleared koala habitat and Camphor laurel trees (which are known to be used by koalas particularly on hot days) in the middle of an important corridor.

Despite a stop work order issued and delivered by hand the carnage continues at 75 Rifle Range Rd.

I urge council to use the full force of the law to stop this environmental vandalism.

The DA also says there are no koalas on the land when Bangalow Koalas have seen koalas and even had to trap a koala located on the land.

Please I strongly urge you to not allow this DA to go ahead.

Our koalas need their habitat and to be able to cross the landscape without harm if they are to survive into the future.

Thankyou,



From: byroneforms
To: council

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Friday, 29 January 2021 5:31:15 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-416

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: My main concern is the increased traffic movements and location of the proposed driveway close to a koala movement corridor that was planted as part of remediation for impacts of current tourist accommodation. "The previous rural tourist accommodation cabins project included a successful revegetation activity in the central corridor and along the southern boundary of the site that provides for Koala habitat" This should be away from koala movement corridor and would best located to the east of existing dwellings, continuing along from the existing drive and along already formed (existing) farm track as visible in site plan. Cutting through proposed remediation plantings and adjacent existing plantings (used as wildlife movement corridor) is poor planning and will potentially subject wildlife to greater interactions with vehicles. SEE report - The reasoning for the new proposed driveway as a means of reducing noise and dust impact is unjustified. The same outcome could be achieved by sealing approaches and internal driveway. It is stated that speed will be limited and signage placed - how will this be achieved and guaranteed to minimise wildlife strike? Section 3.3.3 indicates the Number of Guests at full capacity will be a maximum of 8 adults and some children. This will likely correspond to an 4 couples = 4 additional cars accessing the property and therefore increasing the potential of wildlife strike (koalas) within the property and along Rifle Range Road. As this site has been subject to previous revegetation activities and is a known koala "hot spot", this development needs to be sympathetic to wildlife that now frequents the area locating the drive so close to koala revegetation area and an increase in traffic both along Rifle Range Road and internally, will increase the chances of koalas and other wildlife being hit by cars. Retaining the existing access point from Rifle Range Road, locating the new drive as a continuation of the existing drive and implementing speed reduction methods (speed humps) along the internal drive will reduce potential impacts on wildlife. Credit should be made for the proposed additional revegetation activities included as part of this proposal. Thanks.

	Contact email address:
	Contact address:
ı	

To: council

Subject: Submission for application (10.2021.5.1)

Date: Friday, 29 January 2021 6:32:22 PM

To Byron Bay Councillors,

The above DA is on land that has koalas, including females with joeys.

I am asking that you deny this DA for this reason.

Sincerely,

Sent from my iPhone

From:
To: council

Subject: Koala habitat destroyed

**Date:** Friday, 29 January 2021 7:02:08 PM

I cannot believe the destruction of part of a known koala corridor in rifle range road Bangalow

We do not need any more tourist accommodation in this shire. It is destroying everything we love about it. This development should not proceed in this area. Linda Sparrow and her team at Bangalow koalas have been working tirelessly to protect these vulnerable koalas. How heartbreaking is this. Stop this now!



Sent from my iPhone

To: Cr. Simon Richardson; council; Cr. Alan Hunter; Cr. Michael Lyon; Cr. Jeannette Martin

Subject: DA 10.2021.5.1-75 Rifle Range Rd, Bangalow

**Date:** Friday, 29 January 2021 9:12:17 PM

Importance: High

Dear All,

Imagine coming home to find that a bulldozer had knocked your house down, as well as most of the houses in your neighbourhood.

How would you feel when you arrived home to find your house was gone and you didn't recognise anything in your street any more? You would feel upset, angry, worried, confused and depressed. Then imagine how you would feel if you couldn't get to a shop to buy any food. You would begin to get very hungry. What if you couldn't find somewhere to sleep and rest? Before long you would be tired as well as hungry, and you might also get sick. How long do you think you could survive without food or shelter?

Koalas experience feelings like these when their trees are cleared to make way for a new road or housing estate, for example. If they do manage to survive the clearing, finding somewhere new to live may be difficult, too.

While Koalas are on the ground, they are at great risk from cars and dogs. They may need to cross busy roads to find food trees, and they may get hit by cars. They may also fall into swimming pools and drown because they are unable to climb out. Unless they have a safe area of undisturbed habitat where they can move to and where there aren't already any Koalas living, they are very likely to be killed or get sick and die.

KOALAS ARE A PROTECTED SPECIES!!!! They're not allowed, BY LAW to cause harm to any animal that's protected under the law.

What will you bequeath to your future generation? Koalas only in the zoos?

I strong object DA 10.2021.5.1-75 Rifle Range Rd, Bangalow, and I urge you to stop clearing trees immediately.

Koala is native, Aussi Icon and they must be saved.

I'm waiting for an urgent reply from you.

The world is watching.



Italy

From:

To: council; info@epa.nsw.gov.au

Subject: Urgent Council and EPA intervention (koala protection) required

**Date:** Friday, 29 January 2021 9:55:45 PM

Attachments: Bangalow 1.ipg

Bangalow 2.ipg Bangalow 3.ipg Bangalow 4.ipg

## Property: 75 Rifle Range Rd, Bangalow

We are emailing Byron Shire Council and the NSW Environment Protection Authority in relation to what appears to be illegal tree removal in a critical koala habitat corridor. We are requesting urgent intervention is undertaken to protect these Byron shire koalas.

Australia lost 3 billion animals during the 2019/2020 bushfires and the NSW northern rivers was badly impacted with the loss of many thousands of koalas and other native species. Koalas are threatened and endangered. We must protect every single surviving koala, and that means protecting their habitat.

We understand a current Development Application (DA) No 10.2021.5.1 (still open for public submissions), has been lodged in relation to this property. The assessment and council determination cannot be undertaken until the public exhibition period has concluded.

The DA and proposed development involves a critical koala habitat corridor and from what we understand, also involves council land. The proposed driveway will run along the existing koala habitat and planted koala habitat on the property - effectively causing a barrier for koalas to safely cross.

We understand the DA states that no koalas reside on the property. This is clearly inaccurate and strongly contrasts to experienced eyewitness accounts. Local wildlife rescuers have confirmed this area has been identified as including breeding females and joeys. This same wildlife group has rescued injured koalas from this same area, along the council verge.

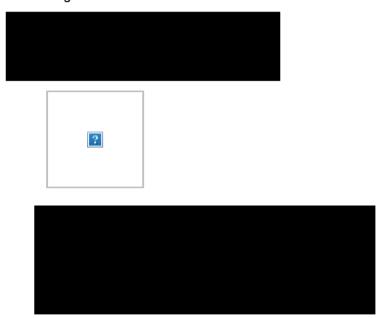
Please refer to attached images which highlight tree removal (camphors) without consent on council land. We acknowledge the camphors are not native, however there is abundant evidence to support the fact that these trees provide shade (as per current summer conditions) and safety for koalas.

It is imperative that a "stop work" notice is issued immediately and that the maximum

penalties are applied for any/all breaches.

Your earliest advice is anticipated.

## Regards











From: Deborah Dick
To: council

**Subject:** Submission for application (10.2021.5.1) - 75 Rifle Range

**Date:** Friday, 29 January 2021 10:11:46 PM

## Objection to this application

I object to this application, this is where koalas live and object for this application to be approved.

Koalas have been sighted and rescued there and you should consider adding a barrier so they cant cross.

How would this look to the world that this project will hurt and destroy a koala habitat.

Please take this email as my objection.



. .

Please please please protect the locales please dun't do this thank you

[4] pr. Vand V. anklinks, yndrollan o'f ank arwi'n al-Higark (A. SCIP SCI feirmine: hynn raw, ger, ac NCIP Scalar Vor Us-Ramen NCIP (og Rost ank US (og Rost ank Uset 16 12 2 10 2021 20000000 f. 10 1 NCIP feirmy char-ON YCII (NCIP science MAR) From:
To: council

Subject: Submission for application (10.2021.5.1)

Date: Saturday, 30 January 2021 9:28:09 AM

Please stop this development and save our koala population from further decimation.

A voter





Virus-free. www.avg.com

From: byroneforms
To: council

**Subject:** 10.2021.5.1 - Submission of Object - **Date:** Saturday, 30 January 2021 11:01:49 AM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-417

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

Grounds: Development Application Form Several errors in development application Site recorded as in Land Zone RUS2 - Rural Landscape. Is actually RU1 Primary Production Says no new road proposed – but existing Rifle Range Road to be widened near entrance and new internal access road constructed. proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP. Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road. Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist accommodation as evidenced on numerous accommodation websites (Trip adviser; booking.com; Airbnb; Instagram; wotif, etc.). Site Information In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site". This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map. The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected in perpetuity by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states: "No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on

accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions: "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of our much loved residents". There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north. As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat': "an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population." No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points: The site was not mapped as koala habitat on the council There were no records of koala sightings on the development site; Koala food trees made up less than 15% of the site's native vegetation. Potential Impacts on Koalas P.27. Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected in perpetuity as a wildlife corridor under planning conditions. Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. As well as the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees. The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance. The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road. The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although nonnative, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals. The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas. Byron DCP. Chapter B1. Biodiversity The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre- existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as: "an area of land with high biodiversity conservation value which should be excluded from any development envelope" and, in this instance, requires a minimum 20m ecological setback. In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected. Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must: clearly demonstrate the demonstrate that alternative layouts have been considered and variation sought: that the impacts cannot be reasonably avoided: show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter No such variation has been identified in the DA. Koala Habitat, as defined in the DCP, includes: "Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey". According to the above definition, the development site clearly fits the definition of Koala Habitat. In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes: Establishment of tree protection zones around retained koala use tree species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed. land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from a suitably qualified person. Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new

residence, but there is no mention of koala friendly features for these, although the SEE states that the existing swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area. Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat - while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016). Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or red flags (which is relevant to this DA) may require an ecological assessment. It also states that: "For development where the proposed development envelope does overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required: a. A signed statement from a qualified ecologist stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including: a. Information to support the conclusion that the proposal does not exceed the BOS threshold; and b. A response to the five part test of significance set out under s7.3(1) of the BC Act. b. An ecological assessment or management plan (where applicable) prepared in accordance with the requirements of B.1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans. There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Additional Concerns In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, the applicant has breached several of the conditions of consent attached to the previous DA 10.2017.360.1.

The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by neighbours and two recent accommodation reviews refer to a dog on site: Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......" Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......" Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars. The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals. In addition, he is clearly flouting the rules on the banning of dogs on site, again showing a complete disregard for the safety and welfare of the koalas, as well as legislative requirements. To make

even more of a mockery of Byron's planning procedure, the current DA includes a 'change of use' from a residence to a tourist facility. Even though the consultation period is not yet over, let alone the DA being determined, a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for many months. A quick visit to the site on Friday 22 nd January 2021 also revealed that the new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.				
We object strongly to these development proposals, both				
due to the lack of data required for a thorough assessment to be made of the				
potential impacts,				
Applicant name:				
Contact phone:				
Contact email address:				
Contact address:				

To: counci

Subject: Submission RE DA 10.2021.5.1 75 Rifle Range Road, Bangalow

**Date:** Saturday, 30 January 2021 11:58:29 AM

As a resident of the shire who supports koala protection in the shire and in NSW, I am greatly concerned about this proposed development.

The DA filing includes the question "Is your proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats or is located on land identified as critical habitats?" The answer given is NO. However, I am aware that residents of Bangelow who are familiar with this property have seen koalas regularly on the property and have rescued at least one koala who was in trouble on that property, so the NO answer cannot be judged to be accurate.

Another question asks "Is tree removal and/or pruning work proposed?" The answer to this is NO. However, residents who are familiar with this property have witnessed tree removal already and are concerned that more will be done. So this NO answer also appears to be inaccurate.

Despite these questionable answers, the applicant declares YES to the item "I declare that all the information in my application and accompanying documents is, to the best of my knowledge, true and correct."

I urge Council to take koalas and koala habitat seriously when assessing this DA and to diligently consider the comments of the Bangalow Koalas group whose efforts are geared to supporting koalas and koala habitats.

The DA implies that tourist traffic on the site can be expected to increase, which would put additional stress on the koalas in the area. I am also concerned that tree removal on the property has begun before the exhibition period is over, and the work has continued even after Council imposed a Stop Work Order. These facts do not bode well for the koalas if this development is allowed to continue. I object to the development on the grounds that it will negatively affect the koalas that are known to be in the area.



# Please accept our Submission regarding DA 10.2021.5.1, 75 Rifle Range Road, Bangalow

We request Byron Council ensures that the landholder complies with the stop work notice which has been served on him but he has so far ignored.

### **Issues:**

- > Removal of trees on council land without consent and before the DA exhibition period has even ended
- > Work has continued even after Council's Stop Work Order was issued
- > DA states there are no koalas on the property. However koalas are regularly seen on this property.
- > The proposed road will be a barrier to koala movements
- > DA should be refused

Byron Council have a policy NOT to permit development in any area that is detrimental to Koala populations. This area was identified as a vital Koala habitat, needing a connecting wildlife corridor, so Bangalow Koalas & their community volunteers have spent the last 3 years planting Koala trees in this location which connects it to a reserve. There has been a noticable increase of Koala sightings but our concern is that this may have been for nothing if this DA is approved by Council as proposed to rezone from residential to 'tourist'.

Yours Sincerely,

To: council

**Subject:** Submissions iconcerning DA 10.2021.5.1, 75 Rifle Range Road, Bangalow

Date: Saturday, 30 January 2021 12:28:06 PM
Attachments: Please accept our Submission regarding.docx

Please accept our Submission regarding.docx

Importance: High

# Please accept our Submission regarding DA 10.2021.5.1, 75 Rifle Range Road, Bangalow

We request that Byron Council ensures that the landholder complies with the stop work notice which has been served on him but he has so far ignored.

### **Issues:**

- > Removal of trees on council land without consent and before the DA exhibition period has even ended
- > Work has continued even after Council's Stop Work Order was issued
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Yours Sincerely,





Virus-free. www.avast.com

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object - Date: Saturday, 30 January 2021 12:32:07 PM

Attachments: BSC-005-418-Development Application (10.2021.5.1).docx BSC-005-418-Koala Records ALA website.ipg.pdf

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-418

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd (LOT: 39 DP: 625255) Bangalow

Application type: Object

Other details:

**Grounds:** I strongly object this development application due to the negative impact it will have on our wildlife, in particular our national icon, koalas. There are several errors on development application form • Site recorded as in Land Zone RUS2 – Rural Landscape is incorrect. It is RU1 Primary Production • The existing Rifle Range Road to be widened near entrance and new internal access road constructed. • Application will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP. • Tree pruning will be required of overhanging branches along length of access road. • Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist accommodation as evidenced on numerous accommodation websites (Trip adviser; booking.com; Airbnb; Instagram; Wotif, etc.).

Applicant name:				
Contact phone:				
Contact email address:				
Contact address	:			

Development Application (10.2021.5.1)

75 Rifle Range Rd, Bangalow 2479 NSW (LOT: 39 DP: 625255)

I strongly object this development application for reasons set out below:

### **Site Information**

In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site". This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map.

The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected **in perpetuity** by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys.

"You may be lucky enough to come across some of our wildlife. As well as the glorious
native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of
our much loved residents".

There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north.

As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat':

"an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population."

No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points:

- The site was not mapped as koala habitat on the council website;
- There were no records of koala sightings on the development site;
- Koala food trees made up less than 15% of the site's native vegetation.

#### **Potential Impacts on Koalas**

P.27 . Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected **in perpetuity** as a wildlife corridor under planning conditions.

Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building.

As well as the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees.

The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance.

The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road.

The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate

and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although non-native, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas.

### Byron DCP. Chapter B1. Biodiversity

The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as:

"an area of land with high biodiversity conservation value which should be excluded from any development envelope'"

and, in this instance, requires a minimum 20m ecological setback.

In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected.

Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must:

- clearly demonstrate the variation sought;
- demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided;

 show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter

No such variation has been identified in the DA.

Koala Habitat, as defined in the DCP, includes:

"Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and

Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

According to the above definition, the development site clearly fits the definition of Koala Habitat.

In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes:

- Establishment of tree protection zones around retained koala use tree species as per the
  Australian Standards (AS 4970-2009 Protection of trees on development sites) before any
  construction or clearing commences and preclusion of any development activities within the
  tree protection zones until after all construction is completed.
- Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from <u>a suitably qualified person</u>.

Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new residence, but there is no mention of koala friendly features for these, although the SEE states that the **existing** swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area.

Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat – while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016).

Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or *red flags* (which is relevant to this DA) may require an ecological assessment. It also states that:

"For development where the proposed development envelope **does** overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required:

- a. A signed statement from a **qualified ecologist** stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including:
  - a. Information to support the conclusion that the proposal does not exceed the BOS threshold; and
  - b. A response to the five part test of significance set out under s7.3(1) of the BC Act.
- b. An ecological assessment or management plan (where applicable) prepared in accordance with the requirements of B.1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans.

There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site.

## **Additional Concerns**

In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, the applicant has breached several of the conditions of consent attached to the previous DA 10.2017.360.1.

The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by neighbours and two recent accommodation reviews refer to a dog on site:

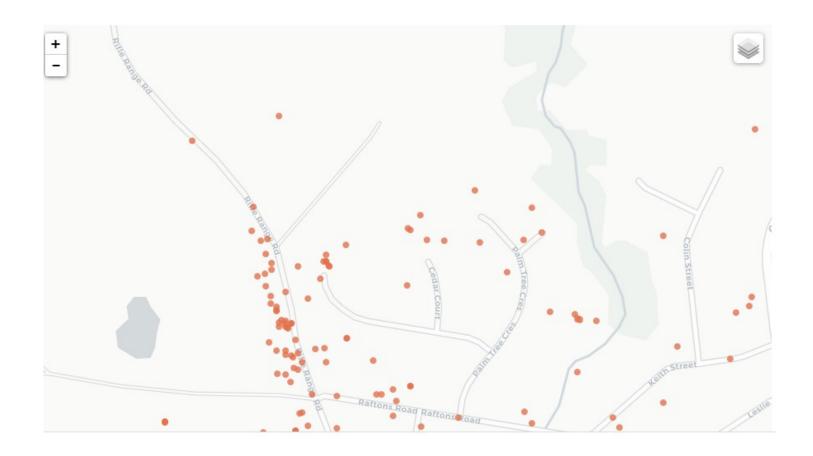
- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first
  anniversary in Australia with our children at a villa. As everybody says, Kahn is an
  extraordinary host. He taught our younger son how to build a fire and let him play with the
  dog the entire evening......."
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......."

Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars.

The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals.

To make even more of a mockery of Byron's planning procedure, the current DA includes a 'change of use' from a residence to a tourist facility. Even though the consultation period is not yet over, let alone the DA being determined, a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for many months

The new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.



From: <u>Ina Egermann</u>

To: submissions@byron.nsw.gov.au; council

Cc: ballina@parliament.nsw.gov.au; Justine.Elliot.MP@aph.gov.au

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow **Date:** Monday, 1 February 2021 8:35:16 AM

Attachments: P1314030.ipeq

P1314035.ipeq

#### To the council:

### Hello,

Yesterday I had a look at the above named property and saw the destruction the owner has already caused. His exhibition period is only ending tomorrow, yet he has removed trees already. He has removed trees, that are on council land, trees that are part of a Koala corridor. Bangalow Koalas has been working so hard to establish and create more corridors around the wider area to give Koalas a fighting chance, yet, here comes someone, that thinks laws doesn't apply to him and clears away. Supposedly the trees were "ONLY" camphors, but it is proven, that Koalas use these trees for shade and rest and what better prove is there than spotting a Koala in a camphor only meters away from the destruction yesterday!!!! I will attach pictures. Also, if they are on council land, how can they be cleared without permission?

Seeing this Koala right there, makes me fear, that one or even some could have perished in the huge pile of wood rubble...no one will ever know...as far as I am aware, shouldn't there be wildlife spotters, when felling occurs???

There is urgent need for consequences to that kind of behaviour. This is wrongful doing and needs to be punished. If council is lenient with this kind of behaviour, it will mean the end of many more Koalas (who are already in a dire situation across all of Australia), as landholder will know, that they can do as they please without having to fear the consequences!!!!!

The property already has an existing driveway, which could have easily been used for the plans the owner has. He could create a fork/turnoff from this existing driveway towards his proposed new build, without clearing big trees. This needs to be looked into carefully.

However, the damage is done and it is saddening, so the only right thing for you, the council, to do now, is to act fast and hard towards this landholder, so that he and future potential offenders realise that there is punishment for breaking the law.

Thank you for your time.

I cc'd federal and state officials for acknowledgment.

Hopeful, but with a sad heart,

This is the Koala in the camphor only meters away from the felling area...on the right is the view to the tree, the Koala is in (I am standing next to the cleared area).



To: council

Cc: daniele voinot sledge

Subject: DA 10.2021.5.1 Rifle Range Road Bangalow Date: Monday, 1 February 2021 9:55:40 AM

To: all Councillors,

I attended a rally yesterday (30/1/21) and saw 2 koalas in trees near the earthworks going on at 75 Rifle Range Road. I understand that the landholder has submitted a DA for tourist accommodation on that site but has commenced before approval and even ignored a Council Stop Work order.

The clearing of vegetation appears excessive and has disturbed local koalas who use the trees for food, shelter and a safe travel corridor. That includes camphor laurels which can be gradually replaced with native species if required. Clearing here looks careless to the point of vandalism.

It is time to take environmental protection seriously.

I believe the Council should reject the DA. I ask for an acknowledgement.

From: council

Subject: D.A. Objection 75 Rifle Range Rd.

Date: Monday, 1 February 2021 10:14:48 AM

To whom it may concern,

I would like to object to the DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow. I own a house at 22 Rosewood Ave, Bangalow and my property backs onto Rifle Range rd. The land owner in question has already built four cabins that along with the main house are all rented out on Air BnB causing a very large increase in traffic. The fact that this is a Koala corridor and especially the fact that he has already cut down a large section of that corridor is not acceptable. This was of course before his D.A. was even approved. I do not think he should be allowed to build any more holiday accommodation and should be made accountable for his actions.



From: council

**Subject:** D.A.10.2021.51 75 Rifle Range Road Bangalow

**Date:** Monday, 1 February 2021 12:23:57 PM

### Dear Council

Complaining about the unauthorised chopping down and removal of trees on council land before the DA exhibition period has even ended.

Work has continued even after Councils Stop Work order was issued

DA states there are no koalas on the property. We saw 2 yesterday. And there are koalas daily seen on property. Removal of feed trees inhibits koala movement and threatens their continued existence.

Please refuse this DA and allow access for planting trees in this essential koala corridor.



From:
To: council; Gmail

Subject: 75 Rifle Ranges Bangalow /DA 10.2021.5.1 Rifle Range Road Bangalow

**Date:** Monday, 1 February 2021 2:25:45 PM

To: all Councillors,

I attended a rally yesterday (30/1/21) and saw 2 koalas in trees near the earthworks going on at 75 Rifle Range Road. I understand that the landholder has submitted a DA for tourist accommodation on that site but has commenced before approval and even ignored a Council Stop Work order.

The clearing of vegetation has disturbed local koalas who use the trees for food, shelter and a safe travel corridor. That includes camphor laurels which can be gradually replaced with native species if required.

I believe that Council needs to enforce its authority. It is time to take environmental protection seriously.

I believe the Council should reject the DA. I ask for an acknowledgement.

Sent from Mail for Windows 10

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Monday, 1 February 2021 1:33:42 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-427

**DA number: 10.2021.5.1** 

Subject address: Riffle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** This DA does not comply with the koala protection policies of Council to maintain the Koala corridor. It threatens an already stressed native animal in the area for the purposes of development.

Applicant name:

Contact phone:

Contact email address:

Contact address:

**Subject:** 10.2021.5.1 - Submission of Object **Date:** Monday, 1 February 2021 2:03:40 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-430

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: Several errors in development application form • Site recorded as in Land Zone RUS2 - Rural Landscape. Is actually RU1 Primary Production • Says no new road proposed - but existing Rifle Range Road to be widened near entrance and new internal access road constructed. • Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP. • Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road. • Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist accommodation as evidenced on numerous accommodation websites (Trip adviser; booking.com; Airbnb; Instagram; wotif, etc.). Site Information In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site". This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map. The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected in perpetuity by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states: "No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including

in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions: • "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of our much loved residents". There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north. As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat': "an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population." No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points: • The site was not mapped as koala habitat on the council website: • There were no records of koala sightings on the development site: • Koala food trees made up less than 15% of the site's native vegetation. Potential Impacts on Koalas P.27. Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected in perpetuity as a wildlife corridor under planning conditions. Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. As well as the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees. The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance. The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road. The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors. The widening of a section of Rifle Range Road will result in the removal of mature

vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although nonnative, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals. The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas. Byron DCP. Chapter B1. Biodiversity The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as: "an area of land with high biodiversity conservation value which should be excluded from any development envelope" and, in this instance, requires a minimum 20m ecological setback. In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected. Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must: • clearly demonstrate the variation sought; • demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided; • show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter No such variation has been identified in the DA. Koala Habitat, as defined in the DCP. includes: "Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey". According to the above definition, the development site clearly fits the definition of Koala Habitat. In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes: • Establishment of tree protection zones around retained koala use tree species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed. • Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from a suitably qualified person. Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new residence, but there is no mention of koala friendly features for these, although the

SEE states that the existing swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area. Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat – while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016). Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or red flags (which is relevant to this DA) may require an ecological assessment. It also states that: "For development where the proposed development envelope does overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required; a. A signed statement from a qualified ecologist stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including: a. Information to support the conclusion that the proposal does not exceed the BOS threshold; and b. A response to the five part test of significance set out under s7.3(1) of the BC Act. b. An ecological assessment or management plan (where applicable) prepared in accordance with the requirements of B.1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans. There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Additional Concerns In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, t

which suggests that any conditions attached to a further consent will also be disregarded. The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by neighbours and two recent accommodation reviews refer to a dog on site: • Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......." • Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......" Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars. The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals.

'change of use' from a residence to a tourist facility. Even though the consultation period is not yet over, let alone the DA being determined, a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for many months. A quick visit to the site on Friday 22nd January 2021 also revealed that the new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.
We object strongly to these development proposals, both due to the lack of data required for a thorough assessment to be made of the potential impacts,
Applicant name:  Contact phone:  Contact address:

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Monday, 1 February 2021 2:03:40 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-429

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: I object to this development proposal - DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow. I regularly visit this area and have even contributed to tree planting activity to help protect the local koala community in nearby properties. I often see koalas in this corridor, on the proposed development site and its surrounding area. It is not possible for this development to not have a negative impact on the koala habitat despite the incorrect proposal stating it will not. The widening of the section of Rifle Range Road will also result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly seen using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site, despite trying to state there are no koalas to be impacted in this area. The tourist traffic because of the airbnb on this section of Rifle Range road is already too high and I watch these visitors drive above the speed limit during the day and at night all the time when visiting my friend's neighbouring property. The increase of visitors to the larger site will result in a higher volume of traffic continuing to ignore speed restrictions increasing the risk of koalas being hit and killed by cars. This is dangerous for the koalas and wildlife in this section.

object to this development and the negative impact it will have on the koala habitat and the wider community. I hope our council can proudly stand behind their reputation as a green council and not be influenced by money. Thanks, Tara

Applicant name: Tara McFall	
Contact phone:	
Contact email address:	
Contact address:	

Subject: DA 10.2021.5.1 - Submission of Object - Date: Monday, 1 February 2021 2:03:39 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-431

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Rd, Bangalow Bangalow

Application type: Object

Other details:

Grounds: I object to this development proposal - DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow. I frequent this area regularly as a local and often see koalas in this corridor, on the proposed development site and its surrounding area. It is not possible for this development to not have a negative impact on the koala habitat despite the incorrect proposal stating it will not. The widening of the section of Rifle Range Road will also result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly seen using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site, despite trying to state there are no koalas to be impacted in this area. The tourist traffic because of the airbnb on this section of Rifle Range road is already too high and I watch these visitors drive above the speed limit during the day and at night all the time. The increase of visitors to the larger site will result in a higher volume of traffic continuing to ignore speed restrictions increasing the risk of koalas being hit and killed by cars. This is dangerous for the koalas and wildlife in this section. The owner of the property has clearly demonstrated a disregard and contempt for Byron Shire Council and our community, planning procedure and planning policy with the work that has already started this week. I object to this development and the negative impact it will have on the koala habitat and the wider community. It would be a real shame should the council choose to support this development as it so obviously has a detrimental affect on native flora and fauna in the Bangalow district. Please do the right thing and protect our wildlife.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	

 Subject:
 10.2021.5.1 - Submission of Object

 Date:
 Monday, 1 February 2021 4:33:32 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-432

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: I object to this development because of it's impact on the Koala Population on this property and adjacent properties. This area is a Koala Corridor and this development will make a huge impact on Koalas which cross these properties regularly. As part of the DA Rifle range road will be widened and there will be a new internal access road. The construction of this road and the increased traffic which will occur due to the fact this is proposed Tourist Accommodation, will cause Koalas to be injured and killed. This Development will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP. The new site access route has already been cleared from Rifle Range Road into the development site.- the Koala corridor has been illegally severed. As the canopy is no longer intact Koalas now need to come to the ground to travel further up Rifle Range Road to reach their food trees, putting them at further risk to being hit by a vehicle. I strongly object to this proposed Development due to the above reasons.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	

Subject: DA 10.2021.5.1 - Submission of Object - Date: Monday, 1 February 2021 5:33:41 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-433

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: I write in opposition of the proposed 75 Rifle Range Road DA 10.2021.5.1. I want to commend Byron Shire Council's efforts in consulting the community on matters that impact on the community and the environment. I have been notified by community members of a DA 10.2021.5.1.75 Rifle Range Road. The proposed DA wishes to move an existing driveway and build a new house, effectively allowing the existing dwelling to become more tourist accommodation and placing the new driveway right beside established and planted koala habitat. Some residents of the Bangalow community are concerned that this DA poses a risk to Koala habitat. As far as I am aware, the DA is right in middle of koala corridor at 75 Rifle Range Rd, I therefore agree that the DA will impact on koalas and their habitat. I note that P.27. Performance Criteria Point C of the SEE requires the development to be located in a way that does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected in perpetuity as a wildlife corridor under planning conditions. Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Moreover, as part of previous DA restrictions on the use of land, pursuant to the provisions of S.88E of the Conveyancing Act 1919, has been placed on the title of the land, that subject of this consent, stating: No works or activities shall be carried out on the burdened land that has a negative impact on the koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1 Furthermore, the DA 10.2021.5.1 states there are no koalas on the property and yet residents and local ecologists have often seen Koalas on the property, including breeding females, mothers and joeys. The proposed driveway will run along the existing koala habitat and planted koala habitat on this property - effectively causing a barrier for koalas to safely cross. In support of the Bangalow community and the matters they have raised I make this submission against the proposed DA 10.2021.5.1. Yours Sincerely Tamara Smith MP

Applicant name:			
Contact phone:			
Contact email add	lress:		

Byron Shire Council PO Box 219 Mullumbimby NSW 2482



01 February 2021

### **SUBMISSION ON 75 RIFLE RANGE ROAD, BANGALOW - DA 10.2021.5.1.**

Dear Councillors and General Manager,

I write in opposition of the proposed 75 Rifle Range Road DA 10.2021.5.1.

I want to commend Byron Shire Council's efforts in consulting the community on matters that impact on the community and the environment.

I have been notified by community members of a DA 10.2021.5.1.75 Rifle Range Road. The proposed DA wishes to move an existing driveway and build a new house, effectively allowing the existing dwelling to become more tourist accommodation and placing the new driveway right beside established and planted koala habitat.

Some residents of the Bangalow community are concerned that this DA poses a risk to Koala habitat. As far as I am aware, the DA is right in middle of koala corridor at 75 Rifle Range Rd, I therefore agree that the DA will impact on koalas and their habitat.

I note that P.27. Performance Criteria Point C of the SEE requires the development to be located in a way that does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected **in perpetuity** as a wildlife corridor under planning conditions.

Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building.

Moreover, as part of previous DA restrictions on the use of land, pursuant to the provisions of S.88E of the Conveyancing Act 1919, has been placed on the title of the land, that subject of this consent, stating:

No works or activities shall be carried out on the burdened land that has a negative impact on the koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1

Furthermore, the DA 10.2021.5.1 states there are no koalas on the property and yet residents and local ecologists have often seen Koalas on the property, including breeding females, mothers and joeys. The proposed driveway will run along the existing koala habitat and planted koala habitat on this property effectively causing a barrier for koalas to safely cross.

In support of the Bangalow community and the matters they have raised I make this submission against the proposed DA 10.2021.5.1.

**Yours Sincerely** 



From: <u>byroneforms</u>
To: <u>council</u>

Subject: 10.2021.5.1 - Submission of Object 
Date: Monday, 1 February 2021 5:33:29 PM

Attachments: BSC-005-434-Evidence-DA Objection (1).ipg
BSC-005-434-Evidence-DA Objection (2).ipg

BSC-005-434-Evidence-DA Objection (3).jpg

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-434

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

**Application type:** Object

Other details:

**Grounds:** Photographic evidence of ground works completed while DA was in progress and decision, pending. Photographic evidence of removal of corridor trees used by koalas to move safely to nearby food trees, during ground works to create a new road to the proposed new dwelling on property. Photographic evidence of koalas in nearby trees where corridor trees were removed, and concern koalas were in felled trees. No need to remove trees used by koalas to create a new, separate road, while DA is still in progress and decision still pending, when an existing road to the property could have been utilised to create a new road to the proposed new dwelling, without the removal of koala corridor trees. Object to decision and execution of ground works and putting a

local koala community in even more danger now the corridor trees have been removed which can't be returned.

Applicant name:		
Contact phone:		
Contact email addres	s:	
Contact address:		







Subject: 10.2021.5.1 - Submission of Object Date: Monday, 1 February 2021 6:34:55 PM

Attachments: BSC-005-435-FOK Submission 75 Rifle Range Road.pdf

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-435

**DA number: 10.2021.5.1** 

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: Impacts on koalas

**Applicant nam** 

Contact phone:

Contact email address:



23 Rifle Range Road PO Box 5034 EAST LISMORE NSW 2480

info@friendsofthekoala.org www.friendsofthekoala.org

24 Hr Rescue Hotline: 6622 1233 FOK Office: 6621 4664

31st January 2021

**Dear Sirs** 

Submission on DA 10.2021.5.1. 75 Rifle Range Road, Bangalow. Proposed Dwelling House, Swimming Pool, Cabana & Shed and Change of Use of Existing Dwelling House into Central Facility Building including Accommodation Bedrooms for existing Rural Tourist Facility

Friends of the Koala (FOK) would like to object strongly to the above proposed development on the grounds of potential impacts on koalas.

There are numerous records of koalas in the immediate vicinity of the site

, as well as from within the property itself, including mothers with joeys. There is a designated koala corridor leading to the property along Rifle Range Road and a S88E restriction was placed on the property title as part of the planning conditions for the previous development relating to the construction of four tourist cabins. This restriction states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

The 'burdened land' formed part of the environmental enhancement for the previous DA where koala food trees were planted along an existing central corridor, which contained mature koala food trees including tallowwood, as enhancement. The proposed access road for this DA runs directly adjacent to this central planting, with no mention of buffer zones nor root protection zones. It will require the removal of sections of this protected corridor for the new access into the site and, according to Note 8 provided on the plans showing the access road, lopping of branches as there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". This access road will therefore result in direct impacts on koala food trees and a protected corridor, as well as indirect impacts through potential damage to the trees through the proximity of the access road, and disturbance to koalas using the corridor.

The proposed access road also incorporates an existing crossing over a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

The location of the access road also means that koalas will have to regularly cross the road to reach the central corridor and move between surrounding habitats to the west and east. Although the proposals for the site include signage to restrict the speed within the site to 40kph, this is insufficient to prevent injury to or death of koalas. Any access road should include speed bumps to ensure users adhere to the speed restrictions.

The application form and Statement of Environmental Effects (SEE) for the DA state that there will be no impacts on native vegetation; no tree work and/or pruning work is proposed; and that the application complies with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted." These three statements are clearly incorrect as native vegetation protected as part of environmental enhancement work for the previous DA will be directly removed and branches will be lopped for the construction of the access route.

The applicant claims that there will be low or no impact to koalas from the development, so no koala survey is required. However, although we hold records of koalas within the site and in the surrounding area, which includes breeding females, there is no evidence of an actual koala survey having been undertaken on the site to confirm its value to koalas, how many or which trees are used by koalas or how the koalas actually use the site. The site clearly meets the criteria of Koala Habitat within the DCP which includes:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala
   Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that
  may be evidenced by breeding female and or historical records and or survey".

Without a detailed koala assessment of the site it is not possible to fully assess the potential impacts on koalas from this development proposal.

The applicant has failed to address the requirements relating to biodiversity in Chapter B1 of Byron Shire's Development Control Plan (DCP). According to this Plan, the protected corridor directly adjacent to the proposed access road constitutes a 'red flag' area which requires a minimum 20m buffer to avoid impacts on land with high biodiversity conservation value. An assessment of tree protection zones is also required to ensure no indirect impacts to this 'red flag' vegetation. In specific relation to koalas, isolated or scattered koala use trees with evidence of Koala activity also require a 20m buffer. As above, without a full koala survey by a suitably qualified person, these koala use trees cannot be identified and protected. The proposals include the removal of mature camphor laurel trees as part of the environmental enhancement, but koalas are frequently recorded using these trees along Rifle Range Road for shade, particularly in extreme hot weather. In fact an Instagram account for the existing tourist facility clearly shows a photograph of a koala in a camphor laurel tree at the site. Although camphor is non-native, it still constitutes a 'koala use tree' if koalas are recorded in it, and its removal could easily result in injury to or death of koalas without a thorough check by a suitably qualified person prior to removal.

As well as the direct and indirect impacts from the new access road, there is a proposal for a new swimming pool. Although the SEE does state that the <u>existing</u> swimming pool will be fenced, there is no mention of fencing for the new pool, and no mention of koala friendly features such as ramps or ropes which are required according to the DCP.

It is clear that this DA has the potential to directly and indirectly impact on koalas and that there is insufficient information to be able to fully assess the potential impacts on this threatened species.

This includes the keeping of dogs on site which was imposed to protect the local koala population and has clearly been breached as evidenced by reviews for the accommodation at the site on well-known websites:

- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......"
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......"

It has also been drawn to our attention that the applicant has already illegally cleared some of the protected koala corridor to prepare site access for this DA, even though it has not yet been determined, and has been issued with a stop notice by Byron Council. This vegetation clearing has severed an important safe connecting corridor for koalas, meaning they will have to come to ground where they are at greater risk of being hit by cars or injured by dogs, when moving further up Rifle Range Road. It is imperative that Council imposes very strong penalties for these blatant breaches to deter other unscrupulous developers within Byron Shire from demonstrating equal contempt for planning law.

In summary, FOK strongly objects to the above DA on the grounds of:

- Direct and indirect impacts on a protected koala corridor;
- Failure to assess the DA against the requirements of the Biodiversity Chapter in the DCP;
- Errors and inconsistencies between the application document, SEE and other supporting documents;
- Yours faithfully

 Subject:
 10.2021.5.1 - Submission of Object

 Date:
 Monday, 1 February 2021 6:33:31 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-436

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd (LOT: 39 DP: 625255) Bangalow

Application type: Object

Other details:

Grounds: Several errors in development application form • Site recorded as in Land Zone RUS2 - Rural Landscape. Is actually RU1 Primary Production • Says no new road proposed – but existing Rifle Range Road to be widened near entrance and new internal access road constructed. • Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP. • Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road. • Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist accommodation as evidenced on numerous accommodation websites (Trip adviser; booking.com; Airbnb; Instagram; wotif, etc.). Site Information In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site". This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map. The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected in perpetuity by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states: "No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including

in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions: • "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of our much loved residents". There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north. As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat': "an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population." No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points: • The site was not mapped as koala habitat on the council website: • There were no records of koala sightings on the development site: • Koala food trees made up less than 15% of the site's native vegetation. Potential Impacts on Koalas P.27. Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected in perpetuity as a wildlife corridor under planning conditions. Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. As well as the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees. The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance. The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road. The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors. The widening of a section of Rifle Range Road will result in the removal of mature

vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although nonnative, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals. The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas. Byron DCP. Chapter B1. Biodiversity The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as: "an area of land with high biodiversity conservation value which should be excluded from any development envelope" and, in this instance, requires a minimum 20m ecological setback. In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected. Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must: • clearly demonstrate the variation sought; • demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided; • show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter No such variation has been identified in the DA. Koala Habitat, as defined in the DCP. includes: "Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey". According to the above definition, the development site clearly fits the definition of Koala Habitat. In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes: • Establishment of tree protection zones around retained koala use tree species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed. • Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from a suitably qualified person. Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new residence, but there is no mention of koala friendly features for these, although the

SEE states that the existing swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area. Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat – while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016). Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or red flags (which is relevant to this DA) may require an ecological assessment. It also states that: "For development where the proposed development envelope does overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required; a. A signed statement from a qualified ecologist stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including: a. Information to support the conclusion that the proposal does not exceed the BOS threshold; and b. A response to the five part test of significance set out under s7.3(1) of the BC Act. b. An ecological assessment or management plan (where applicable) prepared in accordance with the requirements of B.1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans. There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Additional Concerns In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, the applicant has breached several of the conditions of consent attached to the previous DA 10.2017.360.1. The applicant has clearly demonstrated a disregard and contempt for Byron Shire Council, planning procedure and planning policy which suggests that any conditions attached to a further consent will also be disregarded. The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by neighbours and two recent accommodation reviews refer to a dog on site: • Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......." • Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......" Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars. The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals. In addition,

though the consultation period is not yet over, let alone the DA being determined, a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for many months. A quick visit to the site on Friday 22nd January 2021 also revealed that the new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.
I object strongly to these development proposals, both due
to the lack of data required for a thorough assessment to be made of the potential impacts,
Applicant name
Contact phone:
Contact email address:
Contact address:

ı

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Monday, 1 February 2021 7:03:32 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-437

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** As a local resident and wildlife rescue volunteer in Bangalow, I want to add my name to the list of objections to this development. Having seen firsthand the damage that the property owner has already done to trees directly adjacent to the koala corridor - without even gaining permission, it is unthinkable that council could permit further damage and destruction to valuable wildlife space in the Byron Shire. I strongly urge council to reject this DA out of hand and issue the owner with whatever sanctions are available for destroying trees on crown land.

Applicant name:

Contact phone:

Contact email address:

Contact address:

From: council

Subject: Submission of OBJECTION

**Date:** Monday, 1 February 2021 8:39:50 PM

# Objection to DA 10.2021.5.1 75 Rifle Range Rd, BANGALOW

I strongly OBJECT to the DA which will negatively impact our local Koala population.

There is an established driveway that can be used.

The proposed new driveway is directly in a wildlife corridor, next to numerous koala habitat trees which have been established as a corridor over the last 4 years. The new driveway would be an environmental assault on the establishment of this important habitat and the proposed new tourist accommodation will impose on this habitat area. The existing Camphor trees are used by koalas to move through this area.

A number of koalas depend on traversing this land. Koalas have been regularly sighted on the proponent's land and on surrounding properties.

As part of the previous DA there was a restriction placed on the land for the protection of the koala habitat.

"No works or activities shall be carried out on the burdened land that has a negative impact on the koala habitat ..."

I call on Council to refuse this DA and take appropriate action to ensure the future protection of this koala habitat..

Thank you for accepting my objection to this DA.



Subject: DA 10.2021.5.1 - Submission of Object

**Date:** Monday, 1 February 2021 9:03:34 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-439

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

**Grounds:** The DA for 75 Rifle Range Rd has not been approved yet and the owner has started clearing Trees. This area is a significant Koala Corridor and there needs to be more consultation before any work is approved. Koalas are a threatened Australian native species and any impact on there habitat is detrimental.

Applicant name	
Contact phone:	_
Contact email address:	
Contact address:	

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Monday, 1 February 2021 9:33:39 PM

Attachments: BSC-005-440-DJI 0823.ipg BSC-005-440-poorthing.ipg

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-440

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

Grounds: Hello - I live in Bangalow and walk up that road with my family all the time there are ALWAYS koalas up there - even in the camphors - there was one there today right on the edge of where the trees have been removed. The trees which have been pulled are not on the land of 75 Rifle Range Road - it is Crown land - my Father in law is a surveyor so he checked for me - and so cant be just torn down by any resident. I have also drone images of 75 Rifle Range Rd which clearly show further into the property about10-15 native trees have been removed from the protected Koala corridor planted on the property to make way for the driveway. I think there has to be some accountability for these actions - we are so lucky to have koalas in our community - but once their homes go , they go. there are enough airbnbs and holiday cabins in Bangalow - and not nearly enough koalas

Thanks for your time

Applicant name:	
Contact phone:	
Contact email address:	

Contact address:





From: byroneforms
To: council

 Subject:
 DA 10.2021.5.1 - Submission of Object 

 Date:
 Monday, 1 February 2021 10:33:37 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-441

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** I have already sent an email with my statement, as I wasn't aware of this form. I would like to enforce my submission by using this form: 1. Landholder commenced work before end of exhibition period 2. Felled trees are part of a Koala corridor and partly on council land 3. Koalas frequent the area regularly - when I visited the site on Sunday, the 31st, I spotted a Koala in a camphor tree only meters from the cleared area as well as a second one in a food tree further down the road 4. This raises concerns, that Koala(s) may have been felled with the trees, as there was no spotter onsite (as to my knowledge), while trees were cleared 5. There is no need for a new driveway. The property has an existing driveway, that could easily have been used as entry and then forked off towards the proposed new builds without having to clear mature trees 6. Violation of existing local government rules and regulations My email contains photographic evidence, which I can't attach here due to the file size.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	

From: byroneforms
To: council

Subject: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow - Submission of Object -

**Date:** Monday, 1 February 2021 10:33:37 PM

Importance: Low

#### **Development Application - Submission notification**

Submission ID: BSC-005-442

DA number: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** I strongly object to the above Development application on the grounds that this development will have a severe detrimental effect on the future health of the koala population that uses this part of the wildlife corridor. On every level, increased traffic, increased human presence, this can only be bad news for the koalas that inhabit this area. We all have a responsibility to protect the wildlife habitat and the approval of this DA would directly have dire consequences for the health and protection of the koalas. The very fact that the applicant went ahead and started clearing trees, camphors, even before the DA was considered.

and our macadamia farm forms part of the koala corridor. I regularly see koalas using the camphors for shade in the extreme heat and protection from bad weather. In fact, I took a photo today of a young male resting in a camphor laurel growing in the midst of approx. 30 year old tallow trees. Can we even be sure that there were no koalas in the trees that the applicant blatantly bulldozed in contravention to the DA. And really does he even think about it or really care. I need no other reason to object to the approval of this DA given the plight of our endangered and threatened koalas. We all have a responsibility to do everything in our power to ensure their future in our future moving forward. I also volunteer at the koala hospital in Lismore, and see first hand, the damage done to koalas from cars, dogs and stress whilst they try to live in their forever decreasing landscape. In this time of dire circumstances for our world we should be planting trees, not removing them from our landscape. Surely if the application must be approved, then any development should happen on already cleared land, a long way away from what should be protected koala habitat. Goodness knows there is enough cleared land already. I sincerely hope that common sense and consideration for our koalas unable to represent themselves, prevails and that this DA is not recommended for approval.

Applicant name	
Contact phone:	

Contact address:	



1st February 2021

**Dear Sirs** 

Submission on DA 10.2021.5.1. 75 Rifle Range Road, Bangalow. Proposed Dwelling House, Swimming Pool, Cabana & Shed and Change of Use of Existing Dwelling House into Central Facility Building including Accommodation Bedrooms for existing Rural Tourist Facility

I am submitting this letter in objection to the abovementioned DA on a number of issues.

As part of the consent conditions for the previous DA at the site to develop four tourist cabins, an existing central corridor of mature trees, including many koala food trees (e.g. tallowwood, forest red gum) was planted up to further enhance the site for koalas and provide a safe connecting corridor to the wider surroundings. This corridor is protected both under a S88E restriction which states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

and under Chapter B1 Biodiversity of the Byron Shire Development Control Plan (DCP) as it fits the criteria for a number of 'red flags' identified in Table 3 of that Chapter including 'pre-existing protected habitat'; 'land within a defined wildlife corridor; and 'koala habitat outside areas defined within a Comprehensive Koala Plan of Management'. A red flag area is defined as "an area of land with high biodiversity conversation value which should be excluded from any development envelope." and which, in this instance, requires a 20m ecological setback. A 20m ecological setback is also required around all koala habitat, including isolated or scattered koala use trees with evidence of koala activity.

The development proposals for the site will result in direct removal and disturbance of sections of the protected koala corridor, which has been totally ignored in the Statement of Environmental Effects (SEE) and other supporting documentation. In fact those documents clearly state that no native vegetation will be impacted, no tree work and/or pruning is proposed and that no environmental enhancements are noted which could be disrupted by the development.

This is clearly not the case as the proposed access for the site will remove two sections of this protected koala corridor: One for access from Rifle Range Road and the 2<sup>nd</sup> for the connection from the new access track to the proposed Central Tourist Building. The proximity of the access road to the protected koala corridor could also detrimentally impact on the koala food trees through damage to their root systems and requires lopping of overhanging branches to a minimum vertical clearance of 4m. The proximity of the road could also cause disturbance to any koalas using the trees within the corridor.

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews for the site on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions. An Instagram post for the site also includes a photograph of a koala in a camphor laurel at the site.

There is no evidence of an ecological assessment or koala survey having been undertaken for either the previous DA or the current DA, but the applicant claims that a survey is not required as there will be low or

no impact on koalas from the development. However, without a full survey by a suitably qualified person to determine how koalas are using the site and which and how many trees are 'koala use trees", it is not possible to confirm its value and fully assess the potential impacts on this threatened species through loss of koala use trees and severance of connecting corridors.

The location of the access road directly adjacent to, and running parallel to, the protected corridor, also means that koalas will have to regularly cross the road to reach this protected habitat and move between surrounding habitats to the west and east. Although the proposals for the site include signage to restrict the speed within the site to 40kph, this is insufficient to prevent injury to or death of koalas. Increased traffic from more tourists visiting the site also increases the risk of koalas being hit on the road.

The applicant has omitted to assess the potential impacts of the development on biodiversity, as required in the DCP. The current application is not compliant with the DCP as it completely overlooks the presence of koala habitat; direct and indirect impacts on koala habitat; fails to apply a 20m ecological setback from koala habitat and fails to identify koala use trees which must be protected throughout the development. The application also fails to identify the need for, or intention to provide, measures to protect koalas from the risk of drowning. A new swimming pool is proposed for the development and there is also an existing swimming pool. Although there is mention of fencing the <a href="existing">existing</a> pool it does not state that the fencing will be of a design able to exclude koalas, and there is no mention of other features such as ropes or ramps which are referred to in the DCP. There is also no mention of any fencing for the new swimming pool.

The proposals for the site include the removal of camphor laurel as part of environmental enhancement for the development. Koalas, some with joeys, are frequently recorded in the camphor laurels along Rifle Range Road including at the site, so removal of these trees could result in injury to or death of koalas if they are not thoroughly checked by a suitably qualified person prior to removal. Their removal will also result in the loss of valuable shade trees, which is particularly important during extreme heat events.

The previous consent

included a ban on the keeping of dogs on the site to protect the local wildlife, but reviews on accommodation websites clearly show that the applicant is in breach of this condition. Although this current DA includes a 'change of use' from an existing dwelling house into tourist accommodation, these same accommodation websites clearly show that the building is already being rented out as tourist accommodation and has been for many months. As a further demonstration of his contempt for authority the applicant has already illegally cleared two sections of the protected koala corridor to facilitate the new access road for the site, even though the DA has not yet been determined. This has fragmented the tree canopy, forcing koalas to come to the ground where they are vulnerable to car hits and injury from dogs. It seems clear from the above that even if strict planning conditions were imposed to any consent for this DA, it is unlikely that they would be complied with.

Council cannot determine this DA as there is insufficient information to be able to determine the full extent of its potential impacts on biodiversity, in particular on koalas. Council must also impose strict penalties on

If this is not done it will set a precedent for other developers within Byron Shire to follow suit.

Yours faithfully

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object -

**Date:** Monday, 1 February 2021 11:03:53 PM

Attachments: BSC-005-443-Personal Submission on Rifle Range Road DA.pdf

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-443

**DA number: 10.2021.5.1** 

Subject address: 75 Rifle Range Road Bangalow

**Application type:** Object

Other details:

Grounds: Insufficient information on biodiversity to determine, potential impacts on

koalas and failure to comply with DCP

Applicant name:

Contact phone:

Contact email address:

Contact address:

# Please accept our Submission regarding DA 10.2021.5.1, 75 Rifle Range Road, Bangalow

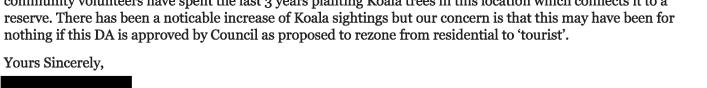
We request Byron Council ensures that the landholder complies with the stop work notice which has been served on him but he has so far ignored.

#### **Issues:**

- > Removal of trees on council land without consent and before the DA exhibition period has even ended
- > Work has continued even after Council's Stop Work Order was issued
- > DA states there are no koalas on the property. However koalas are regularly seen on this property.
- > The proposed road will be a barrier to koala movements
- > DA should be refused

Byron Council have a policy NOT to permit development in any area that is detrimental to Koala populations. This area was identified as a vital Koala habitat, needing a connecting wildlife corridor, so Bangalow Koalas & their community volunteers have spent the last 3 years planting Koala trees in this location which connects it to a reserve. There has been a noticable increase of Koala sightings but our concern is that this may have been for

nothing if this DA is approved by Council as proposed to rezone from residential to 'tourist'.



From: council

Subject: I am sharing "Document (1)" with you Date: Monday, 1 February 2021 11:15:27 PM

Attachments: Document (1).docx

Koala corridor planted by Bangalow Koalas is VITAL to Koala populations on Rifle Range Rd Bangalow. Koalas are often seen along this corridor & in relation to DA proposal, Koalas have been seen just outside the property driveway where DA is sought.

Kind regards

From: susan joyce
To: council

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow **Date:** Monday, 1 February 2021 11:38:10 PM

To Byron Council

The destruction of the Koala corridor than property owner did not have approval to fell these trees which are mostly on council land.

As a local resident I frequently observe Koalas resting in the Camphor canopy along this avenue. Koalas prefer resting in these Camphor trees as they provide dense shade and suitable limb size.

Significant damage has already occurred and I expect Byron Council to take action against the illegal felling of known Koala habitat.

Regards

Sent from my iPhone

From:
To:
Cc:

Subject: DA 10.2021.5.1, 75 Rifle Range Road, Bangalow Date: Monday, 1 February 2021 11:53:53 PM

# To Council,

I urge council to refuse the above development application as it would be a barrier to koala movements and infringe upon their already depleted habitat. As a community we understand the grave situation so many of our native species find themselves in and it behoves us to do everything possible to protect them and their habitat.

I understand the applicant has already commenced clearing trees on council land without consent and before the DA exhibition period has even ended, as well as continuing to clear even after council issued a Stop Work Order!

I have visited the sight and seen the devastation as well as 2 koalas so how can the DA state there are no koalas when they are sighted often in this area, so much so that the group of volunteers with Bangalow Koalas have been planting koala trees in that very location which connects to a reserve. These people have worked tirelessly planting trees and protecting and improving the habitat for the koala population in the understanding that Byron Council have a policy NOT to permit development in any area that is detrimental to koala populations. This location is a case in point and the therefore Byron Council must abide by its own policy and refuse this DA.

I trust the council will join us to protect and nurture our already compromised and threatened koalas.

Yours Sincerely,

From: council

Subject: DAY 10.2021.5., 75 Rifle Range Road, Bangalow

**Date:** Monday, 1 February 2021 11:59:22 PM

#### Dear reader

I can't believe what is happening at this place. We just had the biggest destruction of forests through the bushfires in 2019 since white settlement and someone just logged very important Camphor Laurel trees on council land without permission. These trees are/were very important for the koala population in that area. There are koalas on the property as we saw 2 on sunday, 31st of Jan 2021.

The planned road will be a real barrier for the koalas and with the impact of the fires and chlamydia on koala numbers, I can not believe that anybody with any understanding of their plight can allow this DA to be approved.

# Best wishes



From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object - Tuesday, 2 February 2021 2:03:46 AM

Attachments: BSC-005-444-Koala 2.ipg
BSC-005-444-Koala rifle range .ipg

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-444

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range ROad Bangalow

Application type: Object

Other details:

Grounds: I have lived in this part of Bangalow for 13 years and walk up this road most days for an afternoon walk. Very often, I can spot a koala in the trees, sometimes I see more than one. I have even seen them in the camphalaurel trees as well, as they use them to travel across. I know wildlife groups have been tracking and documenting koala sightings in this particular part of bangalow for some time. In October I made a video of a very healthy koala walking up this section of the road right in front of the development site, she jumped up onto a campha tree and then leapt from smaller trees to get to where she wanted to go. This is a very peaceful stretch of road, where most locals know they can go to spot these truly iconic animals. The development at 75 Rifle Range road not only cuts into this essential corridor, but the plan this person has for this property will bring much more traffic and disrupt this very unique haven for Koalas in our community. Habitat loss and getting hit by cars is a very serious threat to their survival. It is also quite brazen of this individual to begin removing trees before he was given permission from council. Our community deserves to have a say and most of our community would put the Koalas protection first. Please do not let this development continue, enough is enough. Thank you for your time and for working hard for the community of Bangalow and Byron Shire.

Applicant name		
Contact phone:		-
Contact email ad	dress:	
Contact address:		





From:

To:

Subject: DA 10.2021.5.1 - 75 Rifle Range Road - Bangalow

Date: Tuesday, 2 February 2021 4:24:26 AM

Importance: High

The General Manager

**Byron Shire Council** 

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

I strongly object to the development application based on the following grounds:

The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.
- The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document.

The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

• "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents".

The above clearly identifies the site as Koala Habitat, which is defined in the DCP as:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies.

• The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected.

The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees.

The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced.

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site.

Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......"
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......"

The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;
- direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and

Yours sincerely,

From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Tuesday, 2 February 2021 5:03:51 AM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-445

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

Grounds: I have worked in koala conservation for nearly 10 years and during that time, I have released 3 koalas within 100m of this site and know of another half dozen released by other members of Friends of the Koala. Non koala food trees like camphors are vital in areas like this where habitat is scarce and fragmented. Koalas use these trees for shelter due to their thick canopy. As I'm sure you will have heard by now, there was a sick female in a camphor only metres from where trees were illegally felled last week. I am assuming that the land holder wouldn't have concerned himself with a spotter/catcher seeing as he wasn't concerned with waiting for his DA approval before taking trees out. Bangalow's koalas are at a turning point. Every tree matters and every koala matters. Please reject this application and fine the property owner for breaking the law.

Applicant name	
Contact phone:	
Contact email address:	
Contact address:	

From: council

**Subject:** Objection to the development of DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

Date: Tuesday, 2 February 2021 7:30:32 AM

The General Manager Byron Shire Council council@byron.nsw.gov.au

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

# I strongly object to the development application based on the following grounds:

The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in **perpetuity** as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again,this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.

• The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1(Biodiversity) of the Byron Shire Development Control Document.

The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP.

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

• "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents".

The above clearly identifies the site as Koala Habitat, which is defined in the DCP as:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies.

• The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within thedocuments provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected.

The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore alsohas the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees. The DA includes the development of a new swimming poolbut no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced.

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a **suitably qualified ecologist**. A Koala Management Plan should also be prepared for the site. Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

- Review from <u>lastminute.com.au</u> October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......"
- Review from <u>booking.com</u> Jan 14 2021. "......Theowners are friendly and very accommodating and their resident pup is just the cutest!......."

The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within theprotected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, asthe canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;

- direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and

Yours sincerely

From: council

Subject: Gorneanu Valentina

Date: Tuesday, 2 February 2021 7:32:00 AM



The General Manager

**Byron Shire Council** 

RE: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

I strongly object to the development application based on the following grounds:

The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will

regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.

 The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document.

The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

• "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents".

The above clearly identifies the site as Koala Habitat, which is defined in the DCP as:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies.

• The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected.

The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees.

The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced.

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site.

Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals,

revious conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

• Review from <u>lastminute.com.au</u> October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a

fire and let him play with the dog the entire evening......"

• Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......"

The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;
- · direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and

Yours sincerely,

Thank Australia. God bless Australia and the wildlife.

From:
To: council
Subject: Save the Koalas

**Date:** Tuesday, 2 February 2021 11:03:25 AM

I strongly object to the development application based on the following grounds: The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.
- The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document.

The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

• "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents".

The above clearly identifies the site as Koala Habitat, which is defined in the DCP as:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies.

• The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected.

The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees. The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced.

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......"
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......"

  The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within

the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;
- direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and



Yours sincerely,

Sent from Yahoo Mail for iPad

From: byroneforms
To: council

Subject: DA.10.2021.5.1 - Submission of Object - Date: Tuesday, 2 February 2021 11:34:15 AM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-446

**DA number:** DA.10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: I object to this development proposal - DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow. I frequent this area regularly as a local and see the Koala's in this corridor, on the proposed development site and its surrounding area. It is not possible for this development to not have a negative impact on the koala habitat despite the incorrect proposal stating it will not. The widening of the section of Rifle Range Road will also result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly seen using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site, despite trying to state there are no koalas to be impacted in this area. The tourist traffic because of the airbnb on this section of Rifle Range road is already too high and I watch these visitors drive above the speed limit during the day and at night all the time. The increase of visitors to the larger site will result in a higher volume of traffic continuing to ignore speed restrictions increasing the risk of koalas being hit and killed by cars. This is dangerous for the koalas and wildlife in this section.

object to this development and the negative impact it will have on the koala habitat and the wider community. Sincerely, Georgy Searles

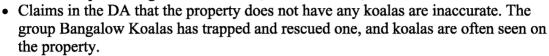
Applicant name		
Contact phone:		
Contact address	i <b>:</b>	

**Date:** Tuesday, 2 February 2021 12:59:41 PM

Dear Sir / Madam,

I would like to object to this Development Application, for the following reasons:

• The applicants have recently been carrying out illegal work, including deforestation, on Council land, before the consultation has been completed.



- The remaining camphor laurel trees are used by this koala population, and therefore should not be removed.
- Widening the dirt road will increase the break in the existing koala corridor, and make it harder for koalas to cross. Similarly, creating a second driveway will have the same effect.

There is a risk that any fines levied could simply be seen as the cost of doing business. I believe that the only deterrent will have to also extend to short jail terms, and would like to see the law changed to accommodate this.

Yours sincerely,

From: council

Subject: IFAW submission to DA 10.2021.5.1 75 Rifle Range Rd, Bangalow

**Date:** Tuesday, 2 February 2021 1:30:53 PM

Attachments: image001.png

IFAW submission to DA 10.2021.5.1 75 Rifle Range Rd, Bangalow 2 Feb 2021.pdf

# To Whom it may concern

Please find attached a submission from IFAW (International Fund for Animal Welfare) regarding the Development Application 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

# Kind regards



IFAW acknowledges the Traditional owners of country throughout Australia and the Oceania region and their connection to land, waters and culture. We pay our respects to their Elders, past, present and emerging.

The content of this email is intended only for the use of the above-named addressee and may contain information that is confidential, proprietary, and/or legally privileged. Please notify the sender if you received this email in error.



2<sup>nd</sup> February 2021

Attention: General Manager Byron Shire Council submissions@byron.nsw.gov.au

Re: Submission to DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

Dear Sir/Madam,

I am writing on behalf of the International Fund for Animal Welfare (IFAW) - a global non-profit helping animals and people thrive together. We rescue, rehabilitate, and release animals and we restore and protect their natural habitats.

IFAW partners with Bangalow Koalas in this region to help restore a koala wildlife corridor and we have serious concerns about the impact of this Development Application on the local koala population and what is a vital koala corridor. Our concerns are outlined below:

# 1. Development Application Form

Firstly, we would like to point out several errors in the development application form:

- Site recorded as in Land Zone RUS2 Rural Landscape. This is in fact RU1
  Primary Production
- States that no new road proposed. However, the existing Rifle Range Road is to be widened near the entrance and new internal access road constructed.
- In relation to the question, is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? The Application form says no but this in fact will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP.
- In relation to whether tree work and/or pruning work proposed? The Application form says no but tree pruning will be required of overhanging branches along the length of access road.
- The Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist accommodation as evidenced on numerous accommodation websites (Trip adviser; booking.com; Airbnb; Instagram; wotif, etc.).

#### 2. Site Information

In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site".

This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map.

The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected in perpetuity by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

However, koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb even includes a mention of the Koala corridor on site as one of the attractions:

"You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of our much loved residents".

There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north.

As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat':

"an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population."

No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (but not a survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and

misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points:

- The site was not mapped as koala habitat on the council website;
- There were no records of koala sightings on the development site;
- Koala food trees made up less than 15% of the site's native vegetation.

#### 3. Potential Impacts on Koalas

P.27 . Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected *in perpetuity* as a wildlife corridor under planning conditions.

Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building.

In addition to the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees.

The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance.

The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to koalas, speed bumps will need to be incorporated into any internal access road.

The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of

the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although nonnative, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events.

A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas.

#### Byron DCP. Chapter B1. Biodiversity

The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014.

According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as:

"an area of land with high biodiversity conservation value which should be excluded from any development envelope'"

and, in this instance, requires a minimum 20m ecological setback.

In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected.

Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must:

- clearly demonstrate the variation sought;
- demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided;
- show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter

However, no such variation has been identified in the DA.

Koala Habitat, as defined in the DCP, includes:

"Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

According to the above definition, the development site clearly fits the definition of Koala Habitat.

In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes:

- Establishment of tree protection zones around retained koala use tree species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed.
- Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from <u>a suitably qualified person</u>.

Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new residence, but there is no mention of koala friendly features for these, although the SEE states that the **existing** swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area.

Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat – while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016).

Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or *red flags* (which is relevant to this DA) may require an ecological assessment. It also states that:

"For development where the proposed development envelope **does** overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required:

- a. A signed statement from a **qualified ecologist** stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including:
  - a. Information to support the conclusion that the proposal does not exceed the BOS threshold; and
  - b. A response to the five part test of significance set out under s7.3(1) of the BC Act.
- An ecological assessment or management plan (where applicable)
   prepared in accordance with the requirements of B.1.2.5 Vegetation
   Management Plans and Biodiversity Conservation Management Plans.

There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a *suitably qualified ecologist*. A Koala Management Plan should also be prepared for the site.

On these grounds, IFAW objects strongly to these development proposals and urge that they should be rejected.

Yours sincerely,



From: <u>byroneforms</u>
To: <u>council</u>

Subject: (10.2021.5.1) - Submission of Object

Date: Tuesday, 2 February 2021 1:34:15 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-447

**DA number:** (10.2021.5.1)

Subject address: Rifle range Road Bangalow

Application type: Object

Other details:

Grounds: Another example

decline and rapid extinction of this rare beast.

Applicant name:

Contact phone:

Contact email address:

Contact address:

From: byroneforms
To: council

Subject: DA 10.2021.5.1 - Submission of Object
Date: Tuesday, 2 February 2021 2:04:13 PM

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-449

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: Submission in Opposition: DA 10.2021.5.1 75 Rifle range Rd Bangalow Dear Byron Shire Council The Byron Environment Centre (BEC) and the BEC Cat & Dog Compliance Committee Object to the DA for the following reasons: 1) The DA is in breach of DCP 2014, Chapter B1 Biodiversity, in regard to impacts on the sites known use by Koalas, and in regard to the sites known use as a Koala movement corridor. 2) The Amendment of the present zoning, RU1 Primary Production to include Tourist use is not supported in this instance. This sites Primary production capacity will be diminished, and the sites biodiversity will be adversely affected. The existing RU1 Primary Production zone is a rural LEP zone primarily intended to promote agricultural production and environmental protection. Noting that the applicant has engaged in a) the unauthorised development of removal of trees, including trees on adjacent Council land b) the unauthorised inception of development works c) breaches of the existing S88b Instrument that prohibits dogs and cats (web holiday let adds identify the breaches) d) the unauthorised use of the existing residential house for Tourism uses e) the failure to hold Tourist use Insurance, as per the State Government Legislation requirement ( Existing Legislation Adopted in anticipation of consideration of a decision on State Holiday Letting legislation - Use for Web Holiday Letting evidenced by listing on numerous sites) f) the failure to provide public information re owner contact, as per the State Government Legislation requirement (Existing Legislation Adopted in anticipation of consideration of a decision on State Holiday Letting legislation- Use for Web Holiday Letting evidenced by listing on numerous sites ). And that the Submitted DA a) Misrepresents the Zoning b) Misrepresents the fact that the development will involve new road works of widening Rifle Range Rd and construction of new internal roads c) Misrepresents the fact that the development will involve Environmental Impacts on Threatened Species d) Misrepresents the fact that the developments road works will require tree removal and pruning e) Fails to address the new construction impacts on removing Primary Production land, and on the sites Environment values f) Fails to address the further environmental impacts from the construction of the new dwelling g) Misrepresents the location of the creek h) Fails to demonstrate either previous or future capacity of compliance with the Conditions of Consent of the previous DA 10.2017.360.1 - " No works or activities shall be carried out on the burdened land that has a negative impact on the Koala Habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with Conditions of Development Consent No. DA 10.2017.360.1" Yours

Applicant name:  Contact phone:  Contact email address:	ntact phone:			
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From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Tuesday, 2 February 2021 2:04:46 PM

 Attachments:
 BSC-005-448-issues for DA 1020215.docx

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-448

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** Non-compliance with and disregard for Byron Shire planning rules and process. The development poses a threat to the resident koala population (an endangered species) by the significant disruption to a designated koala corridor.

Applicant name:

Contact phone:

Contact email address:

Contact address:

- 1. Major errors in the DA e.g.;
  - a. incorrect land use zoning,
  - critical koala habitat claimed to be unaffected but the new access road(s) will be impacted significantly by;
    - i. being too close to koala corridor and tree pruning required,
    - ii. disrupting the koala corridor at the northern end (adjacent to the proposed house).
  - c. existing dwelling is being used for the proposed purpose of tourist accommodation, and may be in contravention of the DCP 2014 limit of 12 bedrooms for 20ha or greater for RU1 and RU2 zoning.
- 2. An S.88E restriction (protection **in perpetuity**) has been placed on the central koala corridor and a section of the southern boundary (in accordance with conditions of development consent number DA 10.2017.360.1) that includes the new road access to Rifle Range Road (RRR);
  - a. the proposed new road will intersect this southern boundary and the southern koala corridor, and
  - b. is likely too close to the protected koala corridor (less than the minimum 20m ecological setback), and cause:
    - i. damage to the tree root systems resulting in death of mature koala food trees, and
    - ii. lopping of the tree branches for a minimum 4m vertical clearance.
- 3. There is a designated koala corridor along RRR that links the protected corridor with additional habitat to the west and north;
  - a. this will be disrupted by the proposed new access road, and
  - b. no koala survey or detailed assessment has been undertaken for this DA (but was undertaken in the previous DA 10.2017.360.1), and
  - c. koalas have been sited on this corridor as recently as Sunday 31 Jan 2021.
- 4. Work has commenced on clearing the vegetation for the new road access to RRR; that
  - a. is in contravention of the S.88E restriction,
  - b. has been undertaken before Council approval of this DA, and
  - c. is located too close to the western boundary of the southern end of the corridor, resulting in the destruction of koala feed trees.
- 5. The proposed widening of a section of RRR will result in the removal of mature vegetation (both native and camphor laurel) that are inhabited by koalas so a survey of the **whole** site is required to determine the potential impact on the endangered koala by this development. The DA states that there will be no impact so that no survey is required.
- 6. Compliance with DCP 2014; the development site (e.g. the central koala corridor) fits the definition of a Koala Habitat and constitutes a 'red flag' area, thus;
  - a. in addition to the 20m ecological setback additional mitigation is required for koalas, such as:
    - i. establishment of tree protection zones around koala-use trees before any activity commences, and
    - ii. written approval must be obtained from a **suitably qualified** person before land clearing commences, and
  - b. development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or *red flags* (which is relevant to this DA) may require an ecological assessment or a vegetation or biodiversity conservation management plan, prepared by **qualified ecologist**.
- 7. Additional issues;
  - a. several of the of the conditions of consent attached to the previous DA 10.2017.360.1 have been breached:
    - i. the incorporation of special features (such as koala-friendly pool fences and koala-friendly pool furniture and down lighting within 30m of koalas habitat) are not mentioned in the DA
    - ii. dogs were excluded to protect the native fauna but have been seen on the property by neighbour and reported in recent accommodation reviews,
    - iii. the reported use of spotlighting for koalas (as reported by neighbours) constitutes a deliberate disturbance of a threatened species in contravention of the biodiversity act 2016.
  - b. complaints from residents of:
    - i. an observed increase in traffic generated by the tourist facility and no one keeps to the speed restrictions, and
    - ii. a higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars.

- i. work has commenced on the clearing of vegetation for the new access road before the approval of the DA and a subsequent stop order was ignored until enforced, and
- ii. the DA includes a 'change of use' from a residence to a tourist facility. Even though the consultation period is not yet over a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for many months.

### Conclusion

• I object strongly to the approval of this DA 10.2021.5.1 for the significant issues given above that impact the survival of the resident koalas.

• •

• Suitable and significant penalties must be imposed for the current breaches of, and disregard for the planning rules.

From: byroneforms
To: council

**Subject:** 10.2021.5.1 - Submission of Object - **Date:** Tuesday, 2 February 2021 2:34:44 PM

Attachments: BSC-005-451-Points for submission on 75 Rifle Range Road.docx

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-451

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

**Application type:** Object

Other details:

Grounds: Several errors in development application form • Site recorded as in Land Zone RUS2 - Rural Landscape. Is actually RU1 Primary Production • Says no new road proposed - but existing Rifle Range Road to be widened near entrance and new internal access road constructed. • Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP. • Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road. • Application is for a new dwelling and 'change of use' of existing dwelling house into central facility building including bedrooms. The existing dwelling is clearly already used as tourist accommodation as evidenced on numerous accommodation websites (Trip adviser; booking.com; Airbnb; Instagram; wotif, etc.). Site Information In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site". This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map. The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected in perpetuity by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states: "No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews

on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions: • "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of our much loved residents". There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north. As defined under the Koala Habitat Protection SEPP. the site therefore qualifies as 'Core Koala Habitat': "an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population." No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points: • The site was not mapped as koala habitat on the council website; • There were no records of koala sightings on the development site; • Koala food trees made up less than 15% of the site's native vegetation. Potential Impacts on Koalas P.27. Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected in perpetuity as a wildlife corridor under planning conditions. Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. As well as the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees. The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance. The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road. The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although nonnative, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals. The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas. Byron DCP. Chapter B1. Biodiversity The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as: "an area of land with high biodiversity conservation value which should be excluded from any development envelope" and, in this instance, requires a minimum 20m ecological setback. In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected. Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must: • clearly demonstrate the variation sought; • demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided; • show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter No such variation has been identified in the DA. Koala Habitat, as defined in the DCP, includes: "Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey". According to the above definition, the development site clearly fits the definition of Koala Habitat. In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes: • Establishment of tree protection zones around retained koala use tree species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed. • Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from a suitably qualified person. Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new

residence, but there is no mention of koala friendly features for these, although the SEE states that the existing swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area. Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat - while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016). Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or red flags (which is relevant to this DA) may require an ecological assessment. It also states that: "For development where the proposed development envelope does overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required: • A signed statement from a qualified ecologist stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including: • Information to support the conclusion that the proposal does not exceed the BOS threshold; and • A response to the five part test of significance set out under s7.3(1) of the BC Act. • An ecological assessment or management plan (where applicable) prepared in accordance with the requirements of B.1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans. There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Additional Concerns In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, the applicant has breached several of the conditions of consent attached to the previous DA 10.2017.360.1. He has clearly demonstrated a disregard and contempt for Byron Shire Council, planning procedure and planning policy which suggests that any conditions attached to a further consent will also be disregarded. The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by neighbours and two recent accommodation reviews refer to a dog on site: • Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......." • Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest! ......." Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars. The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals.

even more of a mockery of Byron's planning procedure, the current DA includes a 'change of use' from a residence to a tourist facility. Even though the consultation period is not yet over, let alone the DA being determined, a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for many months. A quick visit to the site on Friday 22nd January 2021 also revealed that the new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.
We object strongly to these development proposals, both due to the lack of data required for a thorough assessment to be made of the potential impacts, and due to the applicant's total disregard and contempt for due process, so he cannot be relied upon to comply with any planning conditions.
Applicant name:
Contact phone:
Contact email address:
Contact address:

#### POINTS FOR MAKING A SUBMISSION ON 75 RIFLE RANGE ROAD, BANGALOW

#### DUE 2 FEBRUARY 2021. DA 10.2021.5.1

#### **Development Application Form**

Several errors in development application form

- Site recorded as in Land Zone RUS2 Rural Landscape. Is actually RU1 Primary Production
- Says no new road proposed but existing Rifle Range Road to be widened near entrance and new internal access road constructed.
- Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat? Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP.
- Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road.
- Application is for a new dwelling and 'change of use' of existing dwelling house into central
  facility building including bedrooms. The existing dwelling is clearly already used as tourist
  accommodation as evidenced on numerous accommodation websites (Trip adviser;
  booking.com; Airbnb; Instagram; wotif, etc.).

#### **Site Information**

In reference to the site, P.8 of the Statement of Environmental Effects (SEE) states that "The western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddy's Creek which transverses this part of the site". This is incorrect as Paddy's Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map.

The site contains a central vegetated area which contains a high number of mature koala food trees, largely tallowwood, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected **in perpetuity** by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

"You may be lucky enough to come across some of our wildlife. As well as the glorious
native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of
our much loved residents".

There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and on to additional habitat further to the west and north.

As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat':

"an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population."

No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points:

- The site was not mapped as koala habitat on the council website;
- There were no records of koala sightings on the development site;
- Koala food trees made up less than 15% of the site's native vegetation.

## **Potential Impacts on Koalas**

P.27 . Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected **in perpetuity** as a wildlife corridor under planning conditions.

Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building.

As well as the direct impacts to the protected koala corridor, there will also be indirect impacts due to the proximity of the access road. Neither the plans provided with the DA, nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any reference to root protection zones. Even if the trees themselves are not directly being removed, construction of the access road so close to these trees could cause damage to the root systems and result in the death of mature koala food trees.

The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance.

The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was

to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road.

The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although non-native, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required. However, as can be seen from the above, the site constitutes core koala habitat and the development proposals will result in both direct and indirect impacts on koalas and protected koala habitat. It recommends a number of management measures including not permitting pets on site, restricting speed of traffic, fencing the 'existing' swimming pool and large scale ecological restoration will be sufficient to protect native wildlife, including koalas.

#### Byron DCP. Chapter B1. Biodiversity

The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any preexisting habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as:

"an area of land with high biodiversity conservation value which should be excluded from any development envelope"

and, in this instance, requires a minimum 20m ecological setback.

In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected.

Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must:

clearly demonstrate the variation sought;

- demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided;
- show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter

No such variation has been identified in the DA.

Koala Habitat, as defined in the DCP, includes:

"Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and

Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

According to the above definition, the development site clearly fits the definition of Koala Habitat.

In addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes:

- Establishment of tree protection zones around retained koala use tree species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed.
- Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from a suitably qualified person.

Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new residence, but there is no mention of koala friendly features for these, although the SEE states that the **existing** swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area.

Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat – while neighbours have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016).

Neither the previous DA on the site, nor this one, have included an ecological assessment. The DCP states that development proposals on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or *red flags* (which is relevant to this DA) may require an ecological assessment. It also states that:

"For development where the proposed development envelope **does** overlap with red flagged areas or associated ecological setbacks in Table 3 (which this does), or a vegetation or biodiversity conservation management plan is required:

a. A signed statement from a **qualified ecologist** stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including:

- Information to support the conclusion that the proposal does not exceed the BOS threshold; and
- b. A response to the five part test of significance set out under s7.3(1) of the BC Act.
- b. An ecological assessment or management plan (where applicable) prepared in accordance with the requirements of B.1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans.

There is clearly insufficient information on the biodiversity value of the site and the potential for impacts on koalas from the development proposals for the council to be able to determine this DA. As a minimum, a survey of the site is required to fully understand its importance to the local koala population, and to confirm the number of trees used by koalas which may be impacted by the proposals and need to be protected. As in the DCP, this survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site.

#### **Additional Concerns**

In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, the applicant has breached several of the conditions of consent attached to the previous DA 10.2017.360.1.

He has clearly demonstrated a disregard and contempt for Byron Shire Council, planning procedure and planning policy which suggests that any conditions attached to a further consent will also be disregarded. The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by neighbours and two recent accommodation reviews refer to a dog on site:

- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first
  anniversary in Australia with our children at a villa. As everybody says, Kahn is an
  extraordinary host. He taught our younger son how to build a fire and let him play with the
  dog the entire evening......."
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......."

Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars.

The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals.

To make even more of a mockery of Byron's planning procedure, the current DA includes a 'change of use' from a residence to a tourist facility. Even though the consultation period is not yet over, let alone the DA being determined, a quick review of accommodation websites shows that the 'residence' is already widely advertised as tourist accommodation and has been used as such for

many months. A quick visit to the site on Friday 22<sup>nd</sup> January 2021 also revealed that the new site access route has already been cleared from Rifle Range Road into the development site. The vegetation, including large trees, has been removed with no consideration of koalas or other wildlife and a safe movement corridor for koalas has been illegally severed, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

Such blatant, obvious disregard for planning rules is completely unacceptable and must not be allowed to continue without suitable penalties being imposed.

We object strongly to these development proposals, both due to the lack of data required for a thorough assessment to be made of the potential impacts,

From:
To: council

**Subject:** DA10.2021.5.1. - 75 Rifle Range Rd. Bangalow

Date: Tuesday, 2 February 2021 3:13:27 PM

Attachments: Byron DA 10.2021.5.1 75 Rifle Range Rd Bangalow.docx

Dear Sir

Attached is my objection to DA 10.2021.5.1. – 75 Rifle Range Rd., Bangalow.

From:
To: council

Subject: 75 Rifle Range Road Bangalow

Date: Tuesday, 2 February 2021 4:36:44 PM

The General Manager
Byron Shire Council
council@byron.nsw.gov.au

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

## I strongly object to the development application based on the following grounds:

• The property contains a central vegetated area which contains a high number of mature koala food tree, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected in perpetuity by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys.

There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and to additional habitat further to the west and north.

• As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat':

"an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population."

No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However, that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points:

- The site was not mapped as koala habitat on the council website;
- There were no records of koala sightings on the development site;
- Koala food trees made up less than 15% of the site's native vegetation.

## **Potential Impacts on Koalas**

P.27. Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental

enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected **in perpetuity** as a wildlife corridor under planning conditions.

• Although there will be limited habitat loss required for the development, the proposals include the widening of a section of Rifle Range Road for a new access point to be constructed and a new internal access road which runs directly adjacent to the protected central koala corridor. This will result in direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building.

The proponent has already commenced work on the widening of Rifle Range Road, clearing camphor and other trees without consent, before exhibition period has closed.

- As well as the direct impacts to the protected koala corridor, there will also be
  indirect impacts due to the proximity of the access road. Neither the plans provided
  with the DA, nor the SEE, make any reference to a protective buffer for this koala
  corridor, nor make any reference to root protection zones. Even if the trees
  themselves are not directly being removed, construction of the access road so close
  to these trees could cause damage to the root systems and result in the death of
  mature koala food trees.
- The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance.
- The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road.
- The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although nonnative, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals.

• The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as:

"an area of land with high biodiversity conservation value which should be excluded from any development envelope" and, in this instance, requires a minimum 20m ecological setback.

Koala Habitat, as defined in the DCP, includes:

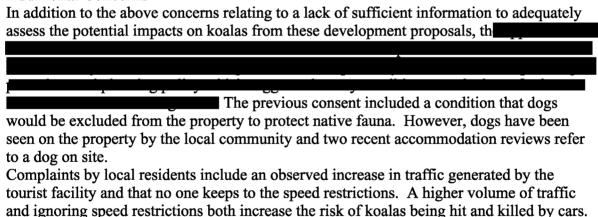
"Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and

Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

According to the above definition, the development site clearly fits the definition of Koala Habitat. And as such in addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes:

- Establishment of tree protection zones around retained koala use tree species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed.
- Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from <u>a suitably</u> qualified person.

## **Additional Concerns**



Yours sincerely

From: council

Subject: Re: DA app 10.2021.5.1 75 Rifle Range Rd
Date: Tuesday, 2 February 2021 5:56:15 PM

Attachments: <u>HinterlandscapesColour2.png</u>

I am concerned about this development.

Destroying a koala habit, that is partially on council land, before even waiting for the outcome of the DA is unacceptable behaviour.

I strongly object to this development.

Kind regards



From:

To: council

Subject: Date:

Fwd: Objection to DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow Tuesday. 2 February 2021 7:37:01 PM

Attachments:

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a **suitably qualified ecologist**. A Koala Management Plan should also be prepared for the site.

Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......."
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......."

The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;
- direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2
   Biodiversity of the DCP; and
- the blatant disregard and breach of planning conditions and process by the applicant.



The General Manager

Byron Shire Council

council@byron.nsw.gov.au

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

### I strongly object to the development application based on the following grounds:

The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected **in perpetuity** as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.
- The proximity of the access road to the protected koala corridor will also cause potential
  disturbance to koalas using these trees and an increase in traffic generated by the tourist
  facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document.

The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

"You may be lucky enough to come across some of our wildlife. As well as the glorious
native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one
of our much loved residents".

The above clearly identifies the site as Koala Habitat, which is defined in the DCP as:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies.

• The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected.

The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees.

The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced.

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a **suitably qualified ecologist**. A Koala Management Plan should also be prepared for the site.

Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

- Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......"
- Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......."

The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;
- direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2
   Biodiversity of the DCP; and

Yours sincerely



From:

To: council

Subject: Koalas - BANGALOW

Date: Tuesday, 2 February 2021 8:18:39 PM

#### SAVE OUR KOALA!

The General Manager Byron Shire Council

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

I strongly object to the development application based on the following grounds: The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.
- The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document.

The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of

the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

• "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents".

The above clearly identifies the site as Koala Habitat, which is defined in the DCP as:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies.

• The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected.

The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees. The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced.

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

• Review from <u>lastminute.com.au</u> October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with

the dog the entire evening....."

• Review from booking.com Jan 14 2021. ".....The owners are friendly and very accommodating and their resident pup is just the cutest!....."

The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;
- direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and

Yours sincerely,

From: Development Support Officer

To: counci

Subject: FW: Objection: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

Date: Thursday, 4 February 2021 3:42:57 PM

From: someone@bigpond.net.au <someone@bigpond.net.au>

Sent: Thursday, 4 February 2021 1:56 PM

To: Development Support Officer <dso@byron.nsw.gov.au>

**Cc:** Linda Sparrow <twodogsmedia@optusnet.com.au>; Lover <ptsin@bigpond.net.au>; clare hopkins <colourmarkdesign@gmail.com>; Melissa Poynting <codarime@bigpond.com>

Subject: Objection: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

## Good Afternoon,

This comes as an <u>objection</u> to the DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow for the following reasons:

- The planned changes to the property will <u>impact our beautiful and important koala</u> <u>habitat/population</u> which has become even more urgent since the bushfires last year
- The <u>increased traffic</u> that will be accessing the site in this koala habitat area will potentially be detrimental to their health and survival
- This koala corridor has been <u>established over many years</u> and must be preserved. Many people have spent <u>countless hours and dollars</u> creating this important koala corridor.
- The World Wildlife Fund has just donated \$1.2 million to Bangalow Koalas. Would they have done so if they'd known important koala trees without approval?
- By removing trees without permission, the
- The owner <u>already has 5 cabins</u> on the property which is a reasonable number. Doubling the capacity is unwarranted and excessive.
- (P.S. Just a suggestion in future, might you be able to <u>name the documents more clearly</u> on the website, rather than just numbers and appendices? It's very confusing, time consuming and a waste of energy downloading them all? Just an idea! ①)

Thank you for listening. Regards,



From: <u>byroneforms</u>
To: <u>council</u>

 Subject:
 DA 10.2021.5.1 - Submission of Object

 Date:
 Tuesday, 2 February 2021 11:04:20 PM

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-452

**DA number:** DA 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

**Grounds:** This development application will impact in a negative manner for the existing koala population that inhabit and traverse the landscape of koala native gum trees and camphor trees that the koala use on a regular basis. The proposed development will cause in increase in vehicle access, which will likely not comply with the road speed limit. This in turn will put the koalas at risk of car hits as they will have to be coming to ground to access food trees. The applicant, by commencing tree removal prior to approval of the DA, shows a blatant disregard to our local authority and to the continued survival of the koala population in our area.

For the above reasons I strongly object to the approval of this development application.

Applicant name:

Contact phone:

Contact email address:

Contact address:

From: council

Cc: <u>ballina@parliament.nsw.gov.au</u>; <u>justine.Elliot.MP@aph.gov.au</u>

Subject: Bangalow Koalas

Date: Wednesday, 3 February 2021 12:38:10 AM

### Dear sirs, madams

I am writing you (this submission) in regards to the current Bangalow Koala situation.

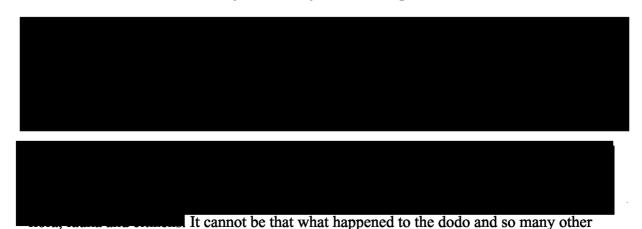
As I'm sure you are all familiar with the current situation, part of your job means that you would be up to date, I will keep this short.

- The owner of 99 acres started clearing within the koala corridor, on crown land, without consent just under two weeks. Basically, he started clearing whilst the exhibition period wasn't yet over.

- A stop work was issued personally by council on Thursday, 28 January 2021, yet later that day, work was still continuing.

hen the four tourist cabins were put on the property several years ago there were restrictions put on the title so that they can't do any work around the koala corridor. The landholder has cleared the trees for a new driveway; he already has an existing driveway, that could have easily been utilised for the future dwellings, that he plans on building. This means he is unnecessarily destroying trees, feed and non feed trees (rest, shade and crossing) for the koalas and of course, many other fauna species.

Our countries' koala population is in serious danger! I'm sure you know this, I'm sure you have seen the reports on the current population, especially after the horrific 2019-2020 bushfire season. These disasters will continue to happen, as long as we government refuses to play it's part in the fight against climate change. I am 46 years old, and as far as my memories go, (till about the age of 6) I can honestly say that I have never seen a koala in the wild. Can you say the same? I do a lot of bushwalking, used to live and still live on a large property and used to be a scout for many years. 40 years no sign of a koala in the wild: this means that this country is seriously on the wrong track!



species we are responsible for the extinction of, will also happen to the most beloved Australian icon. All other icons are also under threat: this needs to be reversed. I don't want future generations to only see these icons in books or on the internet. And before you mention zoo's: even zoo's will become a thing of the past as more and more people on the planet are standing up for and against animals kept in captivity! We have destroyed enough of this planet, for so many reasons, it is now high time to build back and restore!!

I'm sure you feel the same way and I can only hope that you will take the voters who voted for you, and myself, serious and do the right thing. For all Australians!

Please show that we are still right in believing in our justice system, and in politicians who do as they promise when it comes to the protection of our endangered environment/flora and fauna, even if this is becoming more and more difficult every day.

Thank you.		
Yours sincerely,		

From: council

Subject: Objection to DA 10.2021.5.1 75 Rifle Range Road, Bangalow, NSW, 2479

Date: Wednesday, 3 February 2021 6:52:49 AM

# To Whom It May Concern:

I, Misty-Lee Usher am not a resident of this area but read about the unlawful destruction of koala habitat via Facebook via a shared post. This should be condemned and the repeat offender be prosecuted to the full extent of the law as they are not abiding by society's accepted laws and feel they are above such laws therefore are causing willful destruction. A stop needs to be put to their application for further development. I have visited Bangalow and it is such a beautiful part of Australia.



From:
To: council

Subject: DA 10.2021.5.1 - 75 Rifle Range Road Bangalow Date: Wednesday, 3 February 2021 8:31:08 AM

Dear Byron Council,

I am writing to strongly object to the proposed DA at 75 Rifle Range Road

I live in Bangalow, very close to 75 Rifle Range Road. I am very concerned about the impacts this development will have (has already had!) on the established koala corridor in this area of Bangalow. Living in (and regularly walking around) this area of Bangalow, over the last few years I have witnessed koalas moving around this area, using the trees (both gums and indeed camphors) for food and shelter (camphor for shelter).

I can't express strongly enough my utter distress and despair at the impact of the wanton destruction of trees (both on the property and on council land). From walking up Rifle range road recently, I have seen that trees have already been taken out - way before any DA has been approved. This is utterly distressing - no due process!!! But at the heart of all of this, is the fact that the koala corridor that has been steadily developing is now severely damaged - years of work in this area having been destroyed.

In view of the above, please stop the DA and any further destruction

Thank you for considering my letter

Kind regards

Sent from my iPad

From: To: council

OBJECTION - DA10.2021.5.1 - 75 Rifle Range Rd Bangalow Subject:

Date: Wednesday, 3 February 2021 4:44:02 PM

Attachments:

image001.ipg Submission DA.2021.5.1 BK.docx DSC0179.ipg IMG 5765.ipg

Importance: High





The General Manager

Byron Shire Council

council@byron.nsw.gov.au

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

### Bangalow Koalas strongly object to the development application based on the following grounds:

• The property contains a central vegetated area which contains a high number of mature koala food tree, and forms a corridor for koalas, and other wildlife, to safely move through the site. This area, and a section along the southern boundary, had additional planting which formed part of the Environmental Enhancement for the previous DA at this site. According to According to Byron Shire Development Control Plan (DCP) all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected **in perpetuity** by an effective legal restriction on the title of the land. One of the conditions of consent was therefore that a S.88E restriction be placed on this planting. The wording of this states:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

- "You may be lucky enough to come across some of our wildlife. As well as the glorious
  native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of
  our much loved residents".
  - There is also a designated koala corridor along Rifle Range Road which links into the protected corridor on site and to additional habitat further to the west and north.
- As defined under the Koala Habitat Protection SEPP, the site therefore qualifies as 'Core Koala Habitat':

"an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population."

No koala survey, nor detailed koala assessment, has been undertaken for this DA, although a koala assessment (bot not survey) was provided with the previous DA (10.2017.360.1). However, that assessment was totally inadequate and misinformed as it concluded that the site contained neither core nor potential koala habitat based on the following points:

- The site was not mapped as koala habitat on the council website;
- There were no records of koala sightings on the development site;
- Koala food trees made up less than 15% of the site's native vegetation.

### **Potential Impacts on Koalas**

P.27 . Performance Criteria. Point C of the SEE requires that the development must be located so that it does not disrupt environmental enhancement projects on the land. The SEE states that the development is compliant with this point as "No environmental enhancement projects are noted" but this is totally ignoring the previous environmental enhancement which is protected **in perpetuity** as a wildlife corridor under planning conditions.

- Although there will be limited habitat loss required for the development, the proposals
  include the widening of a section of Rifle Range Road for a new access point to be
  constructed and a new internal access road which runs directly adjacent to the protected
  central koala corridor. This will result in direct loss of sections of the protected koala
  corridor at the new access point from Rifle Range Road, as well as for a link road from the
  new access to the proposed Central Facility Building.
  - The proponent has already commenced work on the widening of Rifle Range Road, clearing camphor and other trees without consent, before exhibition period has closed.
- As well as the direct impacts to the protected koala corridor, there will also be indirect
  impacts due to the proximity of the access road. Neither the plans provided with the DA,
  nor the SEE, make any reference to a protective buffer for this koala corridor, nor make any
  reference to root protection zones. Even if the trees themselves are not directly being
  removed, construction of the access road so close to these trees could cause damage to the
  root systems and result in the death of mature koala food trees.
- The application form and SEE both state that there will be no impacts on native vegetation, which is clearly not the case, and Note 8 provided on the plans showing the access road states that there will be a "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is so close to the protected koala corridor, which includes 44 mature tallowwood trees, branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance.
- The location of the access road also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted to 20km to protect native fauna, although this was to be controlled via the use of speed signs, which are not effective. To reduce the risk to Koalas speed bumps will need to be incorporated into any internal access road.
- The proposed access road also incorporates an existing crossing across a drain which "will be checked for capacity and structural adequacy prior to construction of the driveway." This needs to be confirmed prior to granting of any planning permission as, if the existing

crossing is inadequate and a new crossing needs to be created, this will result in loss of more of the protected koala corridor. Without this information it is not possible to fully assess the potential impacts on koalas through loss of food trees and severance of connecting corridors.

• The widening of a section of Rifle Range Road will result in the removal of mature vegetation. Even though some of this may not be native, i.e. camphor laurel, koalas are regularly recorded using the mature camphor laurels along this road for shade. This includes mothers with joeys. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The development proposals include the intention to remove camphor laurel as part of environmental enhancement works but, although non-native, the removal of these trees also has the potential to impact on koalas through potential injury if trees are removed without a thorough pre-clearance check for koalas, as well as through the loss of valuable shade trees, which are particularly important during heat events. A survey of the site to determine the extent of tree use by koalas is required to be able to adequately determine the level of potential impacts on this threatened species from the development proposals.

### Byron DCP. Chapter B1. Biodiversity

• The SEE failed to assess the proposed development against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Plan 2014. According to this chapter, any pre-existing habitat (or other land) provided with formal long-term protection designed to limit further development (i.e. the protected koala corridor within the site) constitutes a 'red flag' area, as does a wildlife corridor. A red flag area is defined as: "an area of land with high biodiversity conservation value which should be excluded from any development envelope'" and, in this instance, requires a minimum 20m ecological setback.

In specific relation to Koala Habitat, outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of Koala activity; and any other areas where Koalas are present and/or koala habitat is planted with public monies. Note that without a koala survey of the development site, koala use trees requiring this 20m ecological setback cannot be identified and protected.

Although the DCP says that minor variations may be considered to achieve practical outcomes, any DA seeking such variation must:

- clearly demonstrate the variation sought;
- demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably avoided;
- show how the variation impact is consistent with the relevant planning principles and objectives of this DCP chapter

No such variation has been identified in the DA.

Koala Habitat, as defined in the DCP, includes:

"Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and

Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

According to the above definition, the development site clearly fits the definition of Koala Habitat. And as such in addition to the required 20m ecological setback from Koala Habitat, additional mitigation required for koalas includes:

- Establishment of tree protection zones around retained koala use tree species as per the
  Australian Standards (AS 4970-2009 Protection of trees on development sites) before any
  construction or clearing commences and preclusion of any development activities within the
  tree protection zones until after all construction is completed.
- Clearing of land cannot commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from a suitably qualified person.
- Additional potential impacts on koalas from the development proposals include the danger imposed by swimming pools. There is an existing swimming pool at the proposed Central Facility Building, and a new swimming pool is proposed for the new residence, but there is no mention of koala friendly features for these, although the SEE states that the existing swimming pool will be fenced. It does not state that the fence will be of a suitable design to exclude koalas, and there is no mention of the new swimming pool being fenced. According to the DCP, swimming pools should include features and furniture that would allow koalas to escape pools and the fenced area.
- Other requirements in the DCP include appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat while neighbours and residents travelling along Granuaille Road have reported spotlights pointed at trees on the property so that the tourists can easily spot the koalas at night. This constitutes deliberate disturbance of a threatened species so contravenes wildlife legislation (Biodiversity Conservation Act 2016)

## **Additional Concerns**

In addition to the above concerns relating to a lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, the applicant has breached several of the conditions of consent attached to the previous DA 10.2017.360.1.

He has clearly demonstrated a disregard and contempt for Byron Shire Council, planning procedure and planning policy which suggests that any conditions attached to a further consent will also be disregarded. The previous consent included a condition that dogs would be excluded from the property to protect native fauna. However, dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

Complaints by local residents include an observed increase in traffic generated by the tourist facility and that no one keeps to the speed restrictions. A higher volume of traffic and ignoring speed restrictions both increase the risk of koalas being hit and killed by cars.

Several errors in development application form

- Site recorded as in Land Zone RUS2 Rural Landscape. Is actually RU1 Primary Production
- Says no new road proposed but existing Rifle Range Road to be widened near entrance and new internal access road constructed.
- Is the proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat?
   Application form says no but will directly impact on land identified as Red Flag/Ecological Setbacks in Biodiversity Chapter of Byron Shire DCP.
- Is tree work and/or pruning work proposed? Application form says no but tree pruning will be required of overhanging branches along length of access road.
- Application is for a new dwelling and 'change of use' of existing dwelling house into central
  facility building including bedrooms. The existing dwelling is clearly already used as tourist
  accommodation as evidenced on numerous accommodation websites (Trip adviser;
  booking.com; Airbnb; Instagram; wotif, etc.).
- The applicant uses Koalas as a selling point for his tourist accommodation, and the supporting documents for the DA refer to the applicant's commitment to establishing a large Koala corridor and also acknowledge that this "central corridor and along the southern boundary of the site" formed part of a revegetation activity which provides for Koala habitat. This is the same corridor that was enhanced and protected specifically for the safety of the koalas and will now be directly and indirectly impacted by the current proposals. In addition, he is clearly flouting the rules on the banning of dogs on site, again showing a complete disregard for the safety and welfare of the koalas, as well as legislative requirements.
- To make even more of a mockery of Byron's planning procedure, the current DA includes a
  'change of use' from a residence to a tourist facility. Even though the consultation period is
  not yet over, let alone the DA being determined, a quick review of accommodation websites
  shows that the 'residence' is already widely advertised as tourist accommodation and has
  been used as such for.

Bangalow Koalas urges Byron Shire Council to refuse this DA on the grounds it will seriously impact our vulnerable koalas especially given the significance of this critical link in the koala corridor for Byron Shire's koalas.

Yours sincerely





From: council

Subject: Help save koalas" habitat Rifle Range Rd.Bangalow!

Date: Wednesday, 3 February 2021 6:00:22 PM

The General Manager Byron Shire Council

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

I strongly object to the development application based on the following grounds: The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.
- The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document.

The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of

the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions:

• "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents".

The above clearly identifies the site as Koala Habitat, which is defined in the DCP as:

- Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and
- Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".

In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies.

• The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected.

The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees. The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced.

There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site.

• Review from <u>lastminute.com.au</u> October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with

the dog the entire evening....."

• Review from booking.com Jan 14 2021. ".....The owners are friendly and very accommodating and their resident pup is just the cutest!....."

The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road.

To summarise, we object strongly to these development proposals on the grounds of:

- lack of data to be able to fully assess the potential impacts on koalas;
- lack of data for the council to be able to determine this application;
- direct and indirect impacts on a protected koala corridor;
- failure to assess the potential impacts of the development against Chapter B2

Biodiversity of the DCP: and

Yours sincerely,

From:

To: council

**Subject:** RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

Date: Wednesday, 3 February 2021 6:24:14 PM

Attachments: DA Objection.pdf

DA Objection.pdf IMG 0922 taken 22.1.21.ipg P1020442 taken 27.1.21.ipg P1020443 taken 27.1.21.ipg

Please accept my apologies for delay in getting this letter and accompanying photographs to you - see attached. I was unable to send it yesterday due to unforeseen circumstances. I am close neighbour of the property for which this DA has been proposed.

hope you will accept my 1-day late

objection. Thanks!



To: The General Manager

**Byron Shire Council** 

council@byron.nsw.gov.au

2<sup>nd</sup> February 2021

# RE: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

I am writing to register my strong objection to the above DA. Below is my first-hand experience of the destruction being caused by the landowner and violent threats of his employee when I voiced concern about work already being done in anticipation of Council's DA process.

I am a nearby resident, who heard an excavator tearing down the trees on council land on Rifle Range Road Friday February 22<sup>nd</sup>. I walked up there, but the excavator had moved by the time I arrived. I took photos of the destruction and promptly phoned Council and spoke to a Council Officer and sent an email with pictures. It seems no immediate action was taken by Council at that time.

I was shocked to hear the excavator again on the morning of Wednesday 27<sup>th</sup> tearing down more trees on Council land – apparently widening the driveway for the DA which was still on exhibition! I again went up there. This time I saw the excavator driver on Council land. I asked why he was working on Council land and took photos of the work he was doing.

Soon the owner of the property appeared. He informed me that he planned to remove all camphors on his property and replace them with rainforest trees. From aerial photos of his property I note that he has already recently cut down a large number of trees. I said I was concerned about the koala corridor, and that the koalas used camphors as shade trees. The owner replied that koalas had only been in the area for less than 50 years, and he planned to restore the rainforest and remove all camphors.

At the time of this conversation on Wednesday 27<sup>th</sup>, I pointed out to the owner that he had no right to be cutting down trees on Council land. What I did not know then was that as part of the conditions attached to the planning consent for the previous DA of the property, he should not be cutting down ANY camphors that may have a negative impact koala habitat.

# As a local landowner myself who sees the important work of Bangalow Koalas and has had to call on them to rescue sick of injured koalas on my property, I believe it is time Council formally recognise the koala corridor to the west of Granuaille Road and take decisive steps to place a moratorium on development in these sensitive areas (notably either side of the unpaved extensions of Rifle Range Road and Raftons Road).

In this particular case, the applicant's flagrant flouting and disregard for Council processes and planning laws render the local koala population extremely susceptible to the applicant's destructive methods. I attach the photos which led to threats of violence from the applicant's excavator driver.

Kind regards



Attachments: Also attached – 3 photos of the destruction







From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object Date: Wednesday, 3 February 2021 9:34:58 PM

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-454

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: The General Manager Byron Shire Council council@byron.nsw.gov.au RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow I strongly object to the development application based on the following grounds: 1. Impacts on Koala Corridor 2. Traffic Impacts on immediate Locality 3. Expanding numbers of tourist accommodation/Central facility Building In regards to the traffic impacts along the driveway at No.75 the Statement of Environmental Effects states more than 9 times throughout the document that; "The existing driveway and access point to Rifle Range Road will then be decommissioned. This should greatly reduce any noise, dust, vibrations and other amenity impacts on nearby residential dwellings". The DA recognises that there is a problem with noise, dust and vibrations of traffic using the driveway to get to the accommodation along No.75, the very same traffic that uses this driveway also uses Rifle Range Rd to get to said property, but the DA does not address the same problems with traffic, noise, dust and vibrations to the neighbours which property's are adjacent to Rifle Range Road. On the 5th January of this year, I spent an hour sitting out the back of my property along Rifle Range Road and counted 36 traffic movements in 1 hour (between 11am to midday). A few years ago the only traffic that would use the top end of Rifle Range Rd would be the family that lived at No. 75 and a cattle truck once a month. 36 traffic movements an hour is extremely excessive for just one of your neighbours to be generating in a residential area. The amount of noise that is generated by the tourist traffic at No.75 is unwelcomed by all that live along Rifle Range Road, and the dust blooms that follow with each and every car and delivery truck movement is a nuisance . Road dust gets into my pool, all over my back veranda and outdoor furniture. Some days, in particular during the drought, we would have to keep our windows closed as road dust would be blown inside the house. Central facility building- The Statement of Environmental Effects states at 3.2.2, "The existing dwelling will be reformatted to allow the existing bedrooms to be used as guest accommodation with shared internal rooms, laundry and outdoor amenity areas. Essentially, conversion of the dwelling allows visitors to access the conveniences of a standard dwelling. By relocating the caretaker to a new far-separated residence, guests are also provided with blah, blah, blah. The existing dwelling has been operating as illegal tourist accommodation for the last 2 years, which no doubt has been contributing to the excessive traffic along what should be a quite country lane. The caretaker lives in a shed on the property and now the owner wishes to build another residence with 3 guest rooms? The DA should assume that there will be a potential to have more guests accommodated in the new build which

will also lead to more traffic movements. I am also concerned with the reference of the existing building becoming an ancillary building, this may give way to further impacts if the ancillary building where to host functions and or a eatery. Koala's The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that: "No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m. The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA. The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road. The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars. The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document. The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions: "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents". The above clearly identifies the site as Koala Habitat, which is defined in the DCP as: Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey". In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered

koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies. The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected. The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joevs are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees. The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced. There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site. Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......." Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......" The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road. To summarise, we object strongly to these development proposals on the grounds of: lack of data to be able to fully assess the potential impacts on koalas; lack of data for the council to be able to determine this application; direct and indirect impacts on a protected koala corridor; failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and the

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Contact phone:		
Contact address:		

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object - Date: Wednesday, 3 February 2021 9:34:58 PM

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-455

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: RE: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow I strongly object to the development application based on the following grounds: 1. Impacts on Koala Corridor 2. Traffic Impacts on immediate Locality 3. Expanding numbers of tourist accommodation/Central facility Building In regards to the traffic impacts along the driveway at No.75 the Statement of Environmental Effects states more than 9 times throughout the document that; "The existing driveway and access point to Rifle Range Road will then be decommissioned. This should greatly reduce any noise, dust, vibrations and other amenity impacts on nearby residential dwellings". The DA recognises that there is a problem with noise, dust and vibrations of traffic using the driveway to get to the accommodation along No.75, the very same traffic that uses this driveway also uses Rifle Range Rd to get to said property, but the DA does not address the same problems with traffic, noise, dust and vibrations to the neighbours which property's are adjacent to Rifle Range Road. On the 5th January of this year, I spent an hour sitting out the back of my property along Rifle Range Road and counted 36 traffic movements in 1 hour (between 11am to midday). A few years ago the only traffic that would use the top end of Rifle Range Rd would be the family that lived at No. 75 and a cattle truck once a month. 36 traffic movements an hour is extremely excessive for just one of your neighbours to be generating in a residential area. The amount of noise that is generated by the tourist traffic at No.75 is unwelcomed by all that live along Rifle Range Road, and the dust blooms that follow with each and every car and delivery truck movement is a nuisance. Road dust gets into my pool, all over my back veranda and outdoor furniture. Some days, in particular during the drought, we would have to keep our windows closed as road dust would be blown inside the house. Central facility building- The Statement of Environmental Effects states at 3.2.2, "The existing dwelling will be reformatted to allow the existing bedrooms to be used as guest accommodation with shared internal rooms, laundry and outdoor amenity areas. Essentially, conversion of the dwelling allows visitors to access the conveniences of a standard dwelling. By relocating the caretaker to a new far-separated residence, guests are also provided with blah, blah, blah. The existing dwelling has been operating as illegal tourist accommodation for the last 2 years, which no doubt has been contributing to the excessive traffic along what should be a quite country lane. The caretaker lives in a shed on the property and now the owner wishes to build another residence with 3 guest rooms? The DA should assume that there will be a potential to have more guests accommodated in the new build which will also lead to more traffic movements. Koala's The proposed site access and

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	Yours sincerely
Bridget Doherty	
Applicant name:	
Contact phone:	
Contact email address:	

Contact address:	

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object - Date: Wednesday, 3 February 2021 9:34:58 PM

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-456

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

Grounds: RE: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow I strongly object to the development application based on the following grounds: 1. Impacts on Koala Corridor 2. Traffic Impacts on immediate Locality 3. Expanding numbers of tourist accommodation/Central facility Building In regards to the traffic impacts along the driveway at No.75 the Statement of Environmental Effects states more than 9 times throughout the document that; "The existing driveway and access point to Rifle Range Road will then be decommissioned. This should greatly reduce any noise, dust, vibrations and other amenity impacts on nearby residential dwellings". The DA recognises that there is a problem with noise, dust and vibrations of traffic using the driveway to get to the accommodation along No.75, the very same traffic that uses this driveway also uses Rifle Range Rd to get to said property, but the DA does not address the same problems with traffic, noise, dust and vibrations to the neighbours which property's are adjacent to Rifle Range Road. On the 5th January of this year, I spent an hour sitting out the back of my property along Rifle Range Road and counted 36 traffic movements in 1 hour (between 11am to midday). A few years ago the only traffic that would use the top end of Rifle Range Rd would be the family that lived at No. 75 and a cattle truck once a month. 36 traffic movements an hour is extremely excessive for just one of your neighbours to be generating in a residential area. The amount of noise that is generated by the tourist traffic at No.75 is unwelcomed by all that live along Rifle Range Road, and the dust blooms that follow with each and every car and delivery truck movement is a nuisance. Road dust gets into my pool, all over my back veranda and outdoor furniture. Some days, in particular during the drought, we would have to keep our windows closed as road dust would be blown inside the house. Central facility building- The Statement of Environmental Effects states at 3.2.2, "The existing dwelling will be reformatted to allow the existing bedrooms to be used as guest accommodation with shared internal rooms, laundry and outdoor amenity areas. Essentially, conversion of the dwelling allows visitors to access the conveniences of a standard dwelling. By relocating the caretaker to a new far-separated residence, guests are also provided with blah, blah, blah. The existing dwelling has been operating as illegal tourist accommodation for the last 2 years, which no doubt has been contributing to the excessive traffic along what should be a quite country lane. The caretaker lives in a shed on the property and now the owner wishes to build another residence with 3 guest rooms? The DA should assume that there will be a potential to have more guests accommodated in the new build which will also lead to more traffic movements. Koala's The proposed site access and

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Yours sincerely
Applicant name
Contact phone:
Contact email address:

Contact address:	

From: byroneforms
To: council

 Subject:
 10.2021.5.1 - Submission of Object 

 Date:
 Wednesday, 3 February 2021 9:35:28 PM

Importance: Low

# **Development Application - Submission notification**

Submission ID: BSC-005-453

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: The General Manager Byron Shire Council council@byron.nsw.gov.au RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow I strongly object to the development application based on the following grounds: 1. Impacts on Koala Corridor 2. Traffic Impacts on immediate Locality 3. Expanding numbers of tourist accommodation/Central facility Building In regards to the traffic impacts along the driveway at No.75 the Statement of Environmental Effects states more than 9 times throughout the document that; "The existing driveway and access point to Rifle Range Road will then be decommissioned. This should greatly reduce any noise, dust, vibrations and other amenity impacts on nearby residential dwellings". The DA recognises that there is a problem with noise, dust and vibrations of traffic using the driveway to get to the accommodation along No.75, the very same traffic that uses this driveway also uses Rifle Range Rd to get to said property, but the DA does not address the same problems with traffic, noise, dust and vibrations to the neighbours which property's are adjacent to Rifle Range Road. On the 5th January of this year, I spent an hour sitting out the back of my property along Rifle Range Road and counted 36 traffic movements in 1 hour (between 11am to midday). A few years ago the only traffic that would use the top end of Rifle Range Rd would be the family that lived at No. 75 and a cattle truck once a month. 36 traffic movements an hour is extremely excessive for just one of your neighbours to be generating in a residential area. The amount of noise that is generated by the tourist traffic at No.75 is unwelcomed by all that live along Rifle Range Road, and the dust blooms that follow with each and every car and delivery truck movement is a nuisance . Road dust gets into my pool, all over my back veranda and outdoor furniture. Some days, in particular during the drought, we would have to keep our windows closed as road dust would be blown inside the house. Central facility building- The Statement of Environmental Effects states at 3.2.2, "The existing dwelling will be reformatted to allow the existing bedrooms to be used as guest accommodation with shared internal rooms, laundry and outdoor amenity areas. Essentially, conversion of the dwelling allows visitors to access the conveniences of a standard dwelling. By relocating the caretaker to a new far-separated residence, guests are also provided with blah, blah, blah. The existing dwelling has been operating as illegal tourist accommodation for the last 2 years, which no doubt has been contributing to the excessive traffic along what should be a quite country lane. The caretaker lives in a shed on the property and now the owner wishes to build another residence with 3 guest rooms? The DA should assume that there will be a potential to have more guests accommodated in the new build which

will also lead to more traffic movements. I am also concerned with the reference to an ancillary building, as this could lead to further developments or use as a function centre, restaurant, etc. Koala's The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that: "No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m. The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA. The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road. The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars. The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document. The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. Recent tourist reviews on accommodation websites for the development site itself also confirm sightings of koalas within the site, including in a tree directly outside one of the villas and a description of the site on Airbnb includes mention of the Koala corridor on site as one of the attractions: "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning. We are a Koala corridor so it is very likely you will spot one of our much loved residents". The above clearly identifies the site as Koala Habitat, which is defined in the DCP as: Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey". In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are

present and/or koala habitat is planted with public monies. The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features, although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected. The development proposals include removal of camphor laurel as part of environmental enhancement works and for widening of a section of Rifle Range Road for site access. Although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees. The DA includes the development of a new swimming pool but no mention of koala friendly features to reduce the danger to koalas of drowning such as fencing, ropes or ramps as required under the DCP. The SEE does however say that the existing swimming pool at the proposed Central Facility Building will be fenced. There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. Of equal concern to the lack of sufficient information to adequately assess the potential impacts on koalas from these development proposals, is the complete disregard and contempt the applicant has shown for planning process and conditions of consent. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. Dogs have been seen on the property by the local community and two recent accommodation reviews refer to a dog on site. Review from lastminute.com.au October 5 2020. "My husband and I celebrated the first anniversary in Australia with our children at a villa. As everybody says, Kahn is an extraordinary host. He taught our younger son how to build a fire and let him play with the dog the entire evening......." Review from booking.com Jan 14 2021. "......The owners are friendly and very accommodating and their resident pup is just the cutest!......" The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road. To summarise, we object strongly to these development proposals on the grounds of: lack of data to be able to fully assess the potential impacts on koalas; lack of data for the council to be able to determine this application; direct and indirect impacts on a protected koala corridor; failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP

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			Yours sincerely
			· cano cimoci cily

Applicant name:

Contact phone:	
Contact email address:	

From:
To: council

**Subject:** Submission opposing DA at Lot 39 DP 625255 75 Rifle Range Road,

Date: Thursday, 4 February 2021 2:39:16 PM
Attachments: Letter re DA for 75 Rifle Range Rd.pdf

Please find my letter attached.

Thanks for considering.

Sent from Mail for Windows 10

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object 
Date: Thursday, 4 February 2021 4:35:41 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-458

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

**Grounds:** - The planned changes to the property will impact our beautiful and important koala habitat/population which has become even more urgent since the bushfires last year - The increased traffic that will be accessing the site in this koala habitat area will potentially be detrimental to their health and survival - This koala corridor has been established over many years and must be preserved. Many people have spent countless hours and dollars creating this important koala corridor. - The World Wildlife Fund has just donated \$1.2 million to Bangalow Koalas.

The owner already has 5 cabins on the property which is a reasonable number. Doubling the capacity is unwarranted and excessive. (P.S. Just an aside - in future, might you be able to name the documents more clearly on the website, rather than just numbers and appendices? It's very confusing, time consuming and a waste of energy downloading them all? Just an idea! (a) Thank you for listening. Regards,

Applicant name	
Contact phone:	
Contact email address:	
Contact address:	

From: byroneforms
To: council

Subject: 10.2021.5.1 - Submission of Object - Lori Scinto

Date: Friday, 5 February 2021 12:36:17 PM

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-459

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd Bangalow

Application type: Object

Other details:

**Grounds:** I write in strong objection to Development Application 10.2021.5.1. Across their range, koalas are under assault and their populations under threat. Approval of this DA would be part of a death by a thousand cuts and would serve as a nail in the coffin of Bangalow's still saveable koala population. I was horrified to hear that the landowner at 75 Rifle Range Rd, Bangalow has already cleared koala habitat and Camphor laurel trees (which are known to be used by koalas particularly on hot days) in the middle of an important corridor. And despite a stop work order issued and delivered by hand the carnage continues at 75 Rifle Range Rd. I urge council to use the full force of the law to stop this environmental vandalism.

Koalas are in dire straits in NSW due to landclearing and the recent Black Summer Fires. In the past 20 years their numbers on the north coast have plummeted, yet clearing for animal agriculture, logging, mining, and urban development has increased significantly. Save Bangalow Koalas have been doing a terrific job with great community effort planting koala food trees to increase habitat and connectivity for the remaining local koalas. The DA also falsely claims there are no koalas on the land when Save Bangalow Koalas have seen koalas and even had to trap a koala located on the land. This landowner has demonstrated beyond doubt that he has no consideration for the environment, koalas, volunteers in the local community or for council. Please, I strongly urge you to not allow this DA to go ahead. Our koalas need their habitat and to be able to cross the landscape without harm if they are to survive into the future. Decisions like this one are key to koala survival.

Applicant name:	
Contact phone:	
Contact email address:	
Contact address:	

From: council

Subject: 75 Rifle Range Rd - OBJECTION TO THE FURTHER REMOVAL OF TREES

**Date:** Friday, 5 February 2021 2:55:49 PM

To whom it may concern,

Re: The clearing of trees at 75 Rifle Range Road

As a resident of Banglow (Tristania Street) I wish to lodge my objection for the clearing of trees at the above address.

My family and I were considerably saddened and distressed to hear that work had started to clear trees without approval, as well as the fact that the area is a well known corridor or our local koalas.

At what point is this okay? Koala are a threatened species, which is already hard to believe and yet for one man's greed we are going to subject these precious animals to further displacement.

We very regularly walk to school (Bangalow Primary) along Rifle Range Rd and always feel blessed when we get to witness such beautiful creatures in their natural habitat. Tring to teach our children to protect wildlife and care for the environment is the only way forward,

We totally and wholeheartedly object to any further removal trees at 75 Rifle Range Road, please deny his requests.

Yours sincerely,

A very concerned resident

From: council

Subject: RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

**Date:** Friday, 5 February 2021 3:58:15 PM

### To whom it may concern,

I strongly object to the development application based on the following grounds: The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

1, There will be direct loss of sections of the protected koala corridor at the new access point

from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a

minimum height of 4m.

2, The application form for the DA and Statement of Environment Effects (SEE) clearly state

that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.

3, The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process.

Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.

4, The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

To summarise, I object strongly to these development proposals on the grounds of: lack of data to be able to fully assess the potential impacts on koalas; lack of data for the council to be able to determine this application; direct and indirect impacts on a protected koala corridor; failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and

Yours sincerely,



From:

To: council

Subject: RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

**Date:** Friday, 5 February 2021 3:58:15 PM

### To whom it may concern,

I strongly object to the development application based on the following grounds: The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

1, There will be direct loss of sections of the protected koala corridor at the new access point

from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a

minimum height of 4m.

2, The application form for the DA and Statement of Environment Effects (SEE) clearly state

that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.

3, The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process.

Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.

4, The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

To summarise, I object strongly to these development proposals on the grounds of: lack of data to be able to fully assess the potential impacts on koalas; lack of data for the council to be able to determine this application; direct and indirect impacts on a protected koala corridor; failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and

Yours sincerely,



From: byroneforms
To: council

Subject: DA10.2021.5.1 - Submission of Object
Date: Saturday, 6 February 2021 10:06:47 A

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-460

**DA number:** DA10.2021.5.1

Subject address: 75 Rifle Range Road Bangalow

Application type: Object

Other details:

Grounds: RE: DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow I strongly object to the development application based on the following grounds: The location of the access road, directly adjacent to, and through, the protected corridor, means that koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access, painted warning signs on the road stating Koala crossing and warning lights similar to that used on Clothiers Creek Road-Tweed Shire Council and even then you will not reduce car speed. The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected in perpetuity as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that: "No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1." • There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m. • The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA. •so speed bumps would need to be incorporated into any internal access road. • The proximity of the access road to the protected koala corridor will also cause potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars. The SEE claims that the development would have low or no direct impact on

koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document. The protected koala corridor, which would fit the criteria of a 'red flag' area as defined under the DCP, contains 44 mature tallowwood trees and other mature eucalypt species including forest red gum. It also contains additional koala food trees that were planted as environmental enhancement for the previous DCP. Koalas are known to be present on the site and there are regular koala sightings in this area, both within the proposed development site itself and in the immediate surrounding area, including mothers and joeys. The above clearly identifies the site as Koala Habitat, which is defined in the DCP as: • Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1); and • Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey". In specific relation to Koala Habitat outside of areas defined within a CKPoM, the DCP requires a 20m ecological setback around any areas of koala habitat; isolated or scattered koala use trees with evidence of koala activity; and any other areas where koalas are present and/or koala habitat is planted with public monies. • The protected koala corridor, and isolated or scattered koala use trees, should therefore not only be excluded from the development envelope, but there should be a 20m ecological setback around these features. although there is no mention of this anywhere within the documents provided with the DA. In addition to this 20m ecological setback, tree protection zones should be established around retained koala use trees as per the Australian Standards (AS 4970-2009) but again there is no mention of this. Note that without a detailed koala survey of the development site these 'koala use' trees cannot be identified or protected. The development proposals include removal of camphor laurel and although not native, camphor laurel is a valuable shade tree for koalas, particularly in times of extreme heat, and koalas with joeys are regularly recorded in the camphor laurels directly adjacent to the development site. An Instagram post for the tourist facility at the site also clearly shows a photograph of a koala in a mature camphor laurel on the development site. The removal of these trees therefore also has the potential to impact on koalas through potential injury, if trees are removed without a thorough pre-clearance check for koalas, as well as indirectly through the loss of valuable shade trees. There is no evidence of an ecological assessment or koala survey having been undertaken on the development site in the relation to the previous or current DA. Without a survey of the site to determine its value to koalas and how it is used, it is not possible to adequately assess the significance of potential impacts on this threatened species from the development proposals. As in the DCP, a survey will need to be undertaken by a suitably qualified ecologist. A Koala Management Plan should also be prepared for the site. I believe dogs and cats should be excluded from this development follow the lead of Koala Beach in Tweed Shire Council. Previous conditions included a ban on the keeping of dogs on site to protect local wildlife, which has clearly been breached. The applicant has also already illegally cleared vegetation for the site access for this DA, even though it has not yet been determined. This includes removal of mature trees within the protected koala corridor, with no consideration of koalas or other wildlife. This has severed their safe route of travel, as the canopy is no longer intact and koalas will need to come to the ground to travel further up Rifle Range Road. I strongly object strongly to this development proposal on the grounds of: • lack of data to be able to fully assess the potential impacts on koalas; • lack of data for the council to be able to determine this application; • direct and indirect impacts on a protected koala corridor; • failure to assess the potential impacts of the development against Chapter B2 Biodiversity of the DCP; and Kind regards.

From: byroneforms
To: council

**Subject:** 10.2021.5.1 - Submission of Object **Date:** Sunday, 7 February 2021 6:37:59

Importance: Low

### **Development Application - Submission notification**

Submission ID: BSC-005-468

**DA number:** 10.2021.5.1

Subject address: 75 rifle range road Bangalow

Application type: Object

Other details:

Grounds: 1.My name is Colin Roden, I am currently Vice President of Bangalow Koalas, and i also am the owner of a Rural Tourist Facility located in Bangalow. This objection is being lodged from a personal perspective, and may not necessarily be the view of the executive of Bangalow Koalas Inc. 2. The proposed DA claims that the subject development has a "low or minimal" impact on Koalas in this area, and thus does not require a Koala Survey but a suitably qualified person. Koalas are well known to reside in this area, and the works already undertaken by the applicant (either legal or unapproved), have had a significant impact on Koalas in Rifle Range Road, with a removal of their corridor that extends from a minimum of 20m to as wide as 40 m in width. This forces koalas to go to ground level to move along the corridor, leaving them subject to attack and stress. 2. The proposed property already has a functioning and maintained driveway of approx 20m in width, with approx 4m of all weather roadway. It just needs to be amended to minimise impact on neighbours. Whilst the applicant claims to want to close this driveway to minimise impact on neighbours due to "noise and dust", the obvious solution would be seal this existing driveway, provide genuine traffic calming devices (ie speed humps), and provide planting along the road side next to the impacted neighbours. These plantings to be relatively low in nature to minimise attracting Koalas on that side of the road. This driveway could easily continue past the existing tourist accomodation, continuing all the way to the new building site The proposal by passes this, and instead builds a new driveway alongside a Koala Corridor, and within the required exclusion zone for construction that applies to the title on this land. In addition, it potentially "cuts off", or "puts at risk" those animals that have to cross between the Koala zone and the corridor on Rifle Range Road. 3. The addition of 4 extra bedrooms, including all ancillary rooms, may well result in the transformation of this existing house to exceed the maximum floor space requirements of Council, and this is not commented upon in this DA, and should be clarified 4.Rural Tourist facilities are primarily required to "enhance" the farm income of these rural properties. There is no evidence that any primary production occurs on this property, rather it is a stand alone tourism development. I further note that Byron Shire council in December 2020 is looking to review its existing frameworks in relation to Rural Tourism Developments, as it appears that some developments are at odds with the intent of the LEP/DCP. This DA is a prime example of this issue, and so council needs to seriously consider its implications, as this is just a case of converting an existing house, which from the properties web site is already operating as an

unauthorised extension of the existing authorised tourist cabin development. By obtaining "legal" status for the existing illegal use, the owner can now build an additional residence on this property. Accordingly, it should stand on its merits as a stand alone development and comply accordingly, including additional disability accessible rooms, etc. I also note that the DA suggests this additional building is for the "owner/manager". Councils intent for the approval of tourist accomodation was that it would be "owner operated" and would not allow for a seperate "managers residence". 5.
The more brazen land clearing of Koala corridor should be sufficient to ensure council applies stringent guidelines to any proposed development on such a sensitive site. regards Colin Roden
Applicant name
Contact phone:
Contact email address:
Contact address:

 From:
 council

 Cc:
 Alex Vince

Subject: Submission - DA No 10.2021.5.1, 75 Rifle Range Road, Bangalow

**Date:** Monday, 8 February 2021 3:42:23 PM

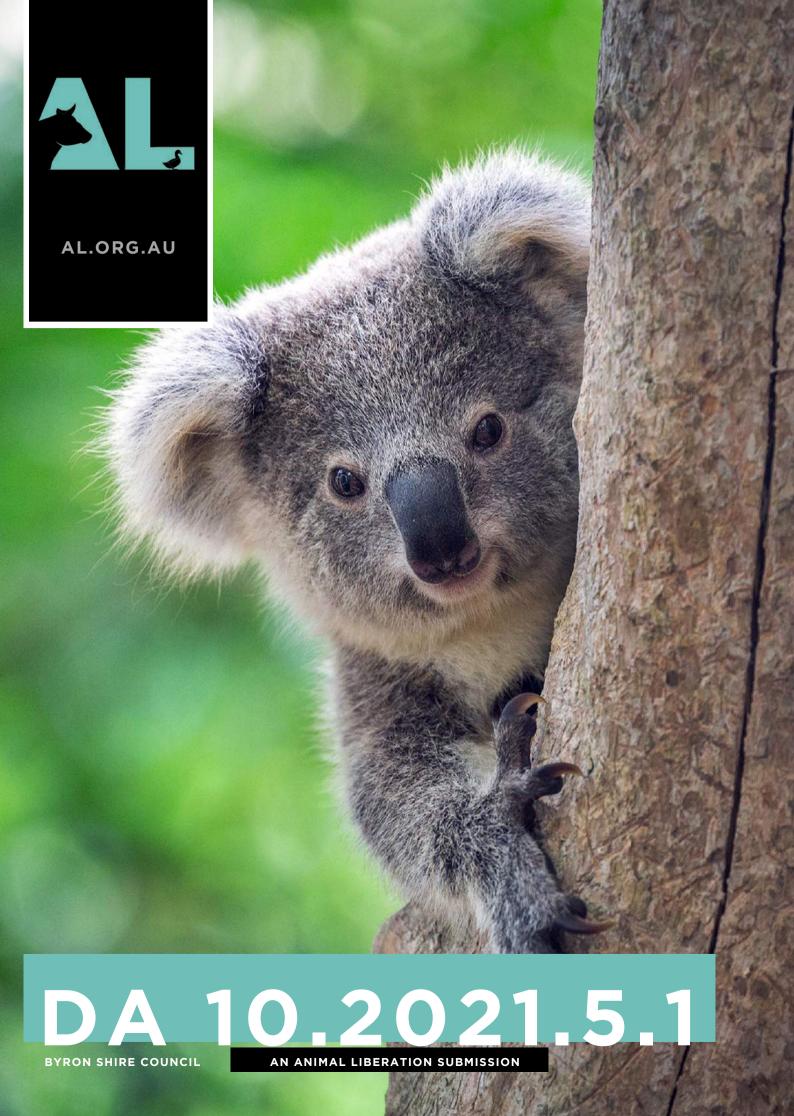
Attachments: AL DA10.2021.51.pdf

Further to my telephone discussion with Council's planning staff last Thursday, please find attached Animal Liberation's submission in response to Development Application No. 10.2021.5.1, Lot 39 DP 625255 75 Rifle Range Road, Bangalow.

In line with section 147(4) of the Environmental Planning and Assessment Act 1979, Animal Liberation confirms its understanding and acceptance that any submissions made in respect of the proposed development are available for public inspection under the provisions of the Government Information (Public Access) Act 2009 (GIPA Request).

In line with Amendments to Local Government and Planning Legislation requiring the public disclosure of donations or gifts when lodging or commenting on development proposals, Animal Liberation discloses and confirms that it has not made any political donations and/or of gifts in the 2 years preceding the application.

Your earliest acknowledgement of our submission would be appreciated.



We acknowledge the
Traditional Owners of
country throughout
Australia and recognise
their continuing
connection to land, waters
and culture.

We acknowledge that this document was written on land stolen from and never ceded by the Gadigal People.

We pay our respects to their Elders past, present and emerging.





#### **DOCUMENT DETAILS**

Animal Liberation. 2021. A submission by Animal Liberation in response to the Development Application No 10.2021.5.1 and associated documents and plans lodged with Byron Shire Council. Sydney: Animal Liberation.

### ABOUT ANIMAL LIBERATION

Animal Liberation has worked to permanently improve the lives of all animals for over four decades. We are proud to be Australia's longest serving animal rights organisation. During this time, we have accumulated considerable experience and knowledge relating to issues of animal welfare and animal protection in this country. We have witnessed the growing popular sentiment towards the welfare of animals, combined with a diminishing level of public confidence in current attempts, legislative or otherwise, to protect animals from egregious, undue, or unnecessary harm. Our mission is to permanently improve the lives of all animals through education, action, and outreach.

#### INTELLECTUAL PROPERTY RIGHTS

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### **DISCLOSURE**

In line with section 147(4) of the Environmental Planning and Assessment Act 1979, Animal Liberation confirms its understanding and acceptance that any submissions made in respect of the proposed development are available for public inspection under the provisions of the Government Information (Public Access) Act 2009 (GIPA Request).

In line with Amendments to Local Government and Planning Legislation requiring the public disclosure of donations or gifts when lodging or commenting on development proposals, Animal Liberation discloses and confirms that it has not made any political donations and/or of gifts in the 2 years preceding the application.



8 February 2021

Byron Shire Council

council@byron.nsw.gov.au



We present this submission on behalf of Animal Liberation.

Animal Liberation is grateful to Byron Shire Council for the opportunity to lodge a submission in response to Development Application ('DA') No 10.2021.5.1, and the associated Statement of Environmental Effects ('SoEE'), documents and plans, lodged with Byron Shire Council by Balanced Systems Planning Consultants on behalf of the Applicant, Mr Barry Wain.

We note the proposed development includes 1) Dwelling House, Swimming Pool, Cabana & Shed and, 2) Change of Use of Existing Dwelling House into Central Facility Building including Accommodation Bedrooms for existing Rural Tourist Facility, in the Byron Shire Local Government Area ('LGA').

We request that it be noted from the outset that Animal Liberation's submission is not intended to provide an exhaustive commentary or assessment in response to the issues contained within the scope of the DA, and/or, the corresponding SoEE, additional documents and plans. Rather, our submission is intended to provide a general examination and responses to select areas of key concern.

As such, the absence of discussion, consideration or analyses of any particular aspect or component must not be read as or considered to be indicative of consent or acceptance. For the purposes of this submission, Animal Liberation's focus covers aspects that we believe warrant critical attention and response.

Animal Liberation has no 'economic' or 'vested interest' pertinent to this planning proposal, however, we care deeply about Animals, our shared Environment, and People including our 'Humanity' which extends to our unique and valued rural communities. We also support the democratic process of public exhibition and the right to have an opinion and voice that opinion, and we support and encourage a rigorous and robust Council assessment process.

Animal Liberation is conversant with the valid local concerns about the proposed development and we share these concerns. We confirm that Animal Liberation lodged an emailed complaint to the NSW Environment Protection Authority ('EPA') and Council on 29 January 2021, about the Applicant's tree clearing, without consent, in an area which is a clear wildlife corridor for local koala populations including breeding females and joeys. Our complaint requested an immediate "stop work" notice and that applicable penalties be issued against the landholder and DA Applicant.

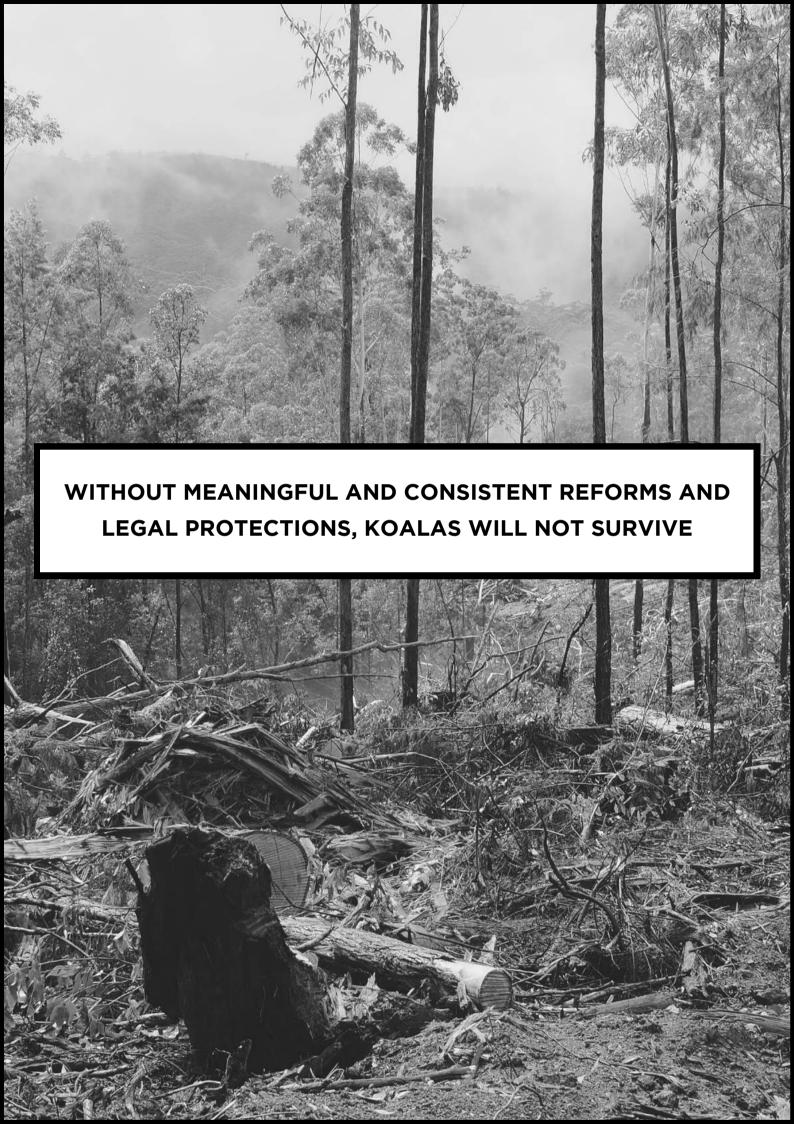
We have thoroughly reviewed the Applicant's DA, SoEE and associated plans and documents, in addition to applicable Council, State and Commonwealth planning instruments, and our primary objections to the proposed development are set out below.

Lisa J. Ryan

**Alex Vince** 

Regional campaigns co-ordinator

Campaign director



### **SECTION ONE**

DA 10.2021.5.1

# PREFACE

We appreciate Council's assessing staff and decision makers have an onerous responsibility with this challenging planning proposal, and that the assessment review must remain independent, objective and informed during the entire process. We acknowledge and further appreciate that this planning proposal includes risks and impacts which extend beyond the Byron Shire Council LGA, and accordingly, carries an added and heavy burden of responsibility.

- As the primary consent authority, Byron Shire Council is required to thoroughly assess the adequacy of information provided and the measures proposed by the Applicant, to mitigate any potential risks, adverse impacts (including cumulative impacts). This is clearly outlined in the Environmental Planning and Assessment Act 1979 (hereafter, 'EP&A Act') which also requires Council give due consideration to social impacts and public interest relating to any proposed development. In sum, these considerations are a necessary and integral part of any comprehensive, objective and meaningful development assessment in line with the applicable planning instruments. Public interest is very strong and Council is required to consider contemporary public views and expectations.
- In addition to applicable planning Instruments, Regulations, and Government Guidelines; Council must take the following matters into consideration, in line with Section 4.15 of the Environmental Planning and Assessment Act 1979. The provisions of particular interest which form a strong basis for Animal Liberation's points of objection, include:
  - the likely impacts of that development including environmental impacts on both the natural and built environments and social and economic impacts in the locality;
  - the suitability of the site for the Development and;
  - the public interest.



Animal Liberation is strongly opposed to DA No 10.2021.5.1 for a proposed Dwelling House, Swimming Pool, Cabana & Shed and Change of Use of Existing Dwelling House into Central Facility Building including Accommodation Bedrooms for existing Rural Tourist Facility in the Byron Shire LGA. The basis of our objection points are detailed as follows and are submitted for Council's consideration.

## WHAT HAPPENS TO THEM

**MATTERS TO THEM** 



### **SECTION TWO**

DA 10.2021.5.1

### INTRODUCTION

- Internationally, nationally and locally, we have reached a major ecological crossroad unlike any experienced before in human history. Due to a rapidly increasing human population and the corresponding encroachment this necessitates, a range of direct and indirect impacts have been inflicted on the natural world and the habitats of many species worldwide (Ehrlich 1994; WWF 2017;. Our exploitation of the earth's finite natural resources, the manipulation of the environment for various anthropogenic purposes and the inevitable harm this causes all beings who depend on an increasingly fragile ecosystem have caused widespread damage. This is compounded by the undisputed impacts and consequences of the climate crisis and the ecological emergency it has engendered. These impacts have serious ramifications for humans and animals alike (Jeffries 2020).
- There has been enormous growth in awareness and public interest about human-animal relationships, protection of the environment, heritage and Aboriginal cultural heritage and climate change. This has caused a major shift in the public's expectations about how we manage these considerations.
- We recognise Byron Shire Council has been more progressive than many NSW Councils in its efforts to acknowledge and manage the important considerations outlined above. Similarly, we acknowledge that there have been measures implemented to balance these considerations with the needs of a rapidly growing local population. However, in spite of the efforts we believe it is necessary to express and present a complimentary range of views on these matters for Council's consideration. We firmly believe that there can be no compromise when it comes to protecting our shared fragile environment and the unique and irreplaceable animals who form the distinctive Australian biodiversity revered and awed around the world.
  - We note Byron Shire Council's website confirms the region has an extremely high level of biodiversity known to support high numbers of rare or threatened plans and animals. Seventy (70) plant species and ninety (90) animal species are recognised as vulnerable or endangered (BSC 2021a). Even small remnants of local Byron bushland provide habitat for threatened species including orchids, koalas and the Mitchell's rainforest snail (BSC 2020a).

- Of particular significance is the fact that the region includes the highest frog, snake and marsupial diversity per unit area of land in Australia. Bird diversity in the region is second only to the wet tropics with the coastal wetlands being a food supply for migratory birds from all over the world. Over half the state's plant species occur in this northeast corner of NSW. The endangered ecological community includes Byron By Dwarf Graminoid Clay Heath, which occurs only in Byron Shire and only around 5 hectares remains in the world. Of note, the hinterland includes one of the last remaining refuges of the ancient Gondwanan rainforests that have grown in Australia for 40 million years (BSC 2021a).
- 2.3.3 Council's website also confirms its local unique environment is under threat from a number of impacts. These include land clearing, climate change and human disturbance (BSC 2021a).
- In NSW, we are continuing to regress at an alarming rate in the protection of koalas and their habitat. The public are increasingly disillusioned by the lack of priority and the absence of actions implemented by Government at all levels to halt the ongoing and rapid decline of healthy and sustainable NSW koala populations. Animal Liberation shares these public views. There is a rapidly eroding level of trust and confidence in elected legislators and all decision makers, particularly concerning publicly declared proclamations to save and protect Australia's iconic and irreplaceable koalas. The frequently stated intent to 'protect and preserve' has not translated into real or meaningful legal protections for NSW koalas or their habitat. Indeed, koala protections in NSW have regressed to a dangerous and alarming level.
  - Recent media reports have expressed this widespread disappointment and growing frustration. For example, the Sydney Morning Herald recently published an article which questioned the concern proclaimed by many politicians: "We say we love them, but in the 230 years since the arrival of the First Fleet, we have systematically and thoughtlessly killed koalas". It went on to explain that in June of 2020, an upper house inquiry declared that "without urgent action, the marsupial would be extinct in the state by 2050". Meanwhile, the Federal government is assessing koala populations in NSW, ACT and Queensland for a potential

# SECTION TWO DA 10.2021.5.1 INTRODUCTION

- "uplisting" of their current status of "vulnerable" to "endangered". The article explained that "a vulnerable species faces a high risk of extinction in the wild; an endangered species has a very high risk" (Wood 2021).
- NSW koalas are in serious trouble and cannot wait any longer for substantive legal reforms to protect them and their habitat. While secondary impacts to NSW koalas are also substantial, the most urgent and pressing threat is the destruction of koala habitat and the failure by decision makers to act.
  - In NSW our iconic koalas are listed as a vulnerable threatened species with the real risk of extinction in the medium term. Individual NSW koala populations on the lower north coast, Northern Rivers and northern Sydney Pittwater local government areas are already listed as endangered populations (DPIE 2017; DPIE 2018). Without urgent and decisive actions, inaction will ultimately cement Australia's appalling world's worst mammal extinction record as representing more than merely a trend or series of calamitous errors (Short and Smith 1994; Woinarski et al. 2015). It will secure our infamy in history as refusing to act in the face of sound science.
  - NSW koala populations estimates vary. However, the rapid and ongoing steep decline in populations is not in dispute. In 2016, the NSW Chief Scientist conservatively estimated that approximately 36,000 NSW koalas remain in the State. This figure represents a 26% decline over the last three generations of koalas (between approximately 15-21 years) (O'Kane 2016). It is important to note that these estimates were made prior to the devastating 2019/2020 bushfires which affected over 3 million hectares of all moderate to very high suitability koala habitat in eastern NSW alone and killed over 6,000 individuals (DPIE 2020; WWF 2020).
  - The status of NSW koala's as vulnerable, threatened and endangered has never been more pressing. This has been recognised by a range of organisations, including the World Wide Fund for Nature-Australia (WWFAustralia), the

# SECTION TWO DA 10.2021.5.1

- International Fund for Animal Welfare and Humane Society International, following the devastating 2019/2020 bushfires (WWF 2020).
  - The Natural Resources Commission's report assessing the Land Conservation Reform Management and Biodiversity Conservation Reforms highlighted the devastating impacts resulting from the NSW Government's changes to land clearing laws in 2016 (NRC 2019). This report describes NSW land clearing as a "state-wide risk to biodiversity" and confirms the outrageous extent of environmental vandalism, some of which they can't even account for, and which has been enabled by the policies and policy direction of the NSW Government.
  - In spite of this evidence strongly supporting the listing of koalas as vulnerable across NSW, including recognition that 'habitat' is the most vital component for koala survival, and repeated and consistent testimony from koala experts; government legislators and decision-makers continue to ignore the urgent plight of NSW koalas in favour of other vested economic considerations and policy directions. Shamefully, this has been evidenced in numerous instances over recent decades by the behaviours, actions and policy directives adopted by decision makers. This continues largely unabated in a profoundly apathetic, unethical and patently unaccountable manner.
    - Australia's environment and species protection laws and policies at Federal, State and Local council level are palpably inadequate and continue to fail koalas and permit the razing or fragmentation of their limited habitat. Legislation and policy contradictions and inconsistencies with decision making add to these inadequacies and failures, along with government's core economic interests and priorities being afforded blatantly biased and preferential treatment.
    - Such inaction has fomented community concerns. According to recent media reports this means that "above all else, our insatiable needs have led to the greatest threats' koalas face: climate change and its handmaidens, more extreme droughts and bushfires" (Wood 2021).

# SECTION TWO DA 10.2021.5.1

2.7.3

The article continued to challenge the outpouring of worldwide concern expressed in the wake of the release of devastating images of injured wildlife, stating that "despite the international spotlight the 2019-20 fires threw on the urgency of the species' plight, one year on, governments have taken little meaningful action to protect the marsupial and its habitat". While it was recognised that concern for iconic species, such as the koala, translates into the engagement of community members in conservation issues who may otherwise remain uninvolved, it emphasised the vulnerability of "umbrella species" who rely on "a broad range of habitats which are home to many other species". It concluded that there needed to be a pressure to "put measures in place to protect koalas in the wild", noting that this would thereby mean other species will also benefit (Wood 2021).

Australia lost 3 billion animals during the 2019/2020 bushfires and the NSW northern rivers area was badly impacted with the loss of many thousands of koalas and other native species. Koalas are threatened and endangered. Protecting koalas means protecting their habitat. Every single remaining koala is vitally important, and we must do everything in our power to protect them for future generations and a balanced ecosystem and environment. There can be no more compromise.



### **SECTION THREE**

DA 10.2021.5.1

### POINTS OF OBJECTION

"Habitat" for koalas means homes, food and water sources, safety and survival...

#### PROPOSED DEVELOPMENT

- The Applicant's DA includes proposals for the 1) the construction of a new dwelling house in a suitable location on the site, and, 2) conversion of the existing dwelling house into a central facility building that includes additional accommodation bedrooms and shared facilities as part of the existing rural tourist accommodation facility, which obtained planning permission from Byron Shire Council in December 2017 under DA No 10.2017.360.1.
- The proposed development also involves moving the existing driveway and construction of a new house, effectively allowing the existing dwelling to increase current capacity for tourist accommodation.
  - The proposed new driveway would be situated alongside established and planted koala habitat, and in our informed view, would be disastrous for existing koalas which utilise these trees and use the property to transverse the landscape. The camphor trees on both sides of the dirt part of Rifle Range Rd road are currently used by koalas and thus must be deemed koala use trees. The camphors and the koala trees along this part of the dirt road also serve as part of the critical movement corridor for these koalas.
  - Further, we understand that recent tourist reviews on accommodation websites confirm sightings of koalas within the site, and one description of the site on Airbnb refers to the koala corridor as one of the attractions: "You may be lucky enough to come across some of our wildlife. As well as the glorious native birdsong in the morning we are a Koala corridor so it is very likely you will spot one of our much loved residents".

#### POINTS OF OBJECTION

- Koala Habitat, as defined in the Byron Shire Council Development Control Plan ('DCP'), includes:
  - "Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area" and;
  - Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding female and or historical records and or survey".
- Local wildlife carers have confirmed that koalas have been rescued on the Applicant's side of the road as well as directly from the property in question. Eyewitness accounts confirm sightings of koalas in the camphor trees, including breeding females and joeys along this section of road and in particular, the section near the existing driveway. It is a fact that koalas are utilising habitat on the property as well as traversing the landscape across the property.
  - As the Applicant has now removed camphors along his boundary line, he has severed a section of the critical movement corridor. The proposed new driveway would be situated directly along the edge of koala habitat trees on Applicant's property, noting that the previous DA included the planting of additional koala and rainforest trees. Current koala populations are using these established trees and to propose a driveway running along them will cause a barrier for koalas to safely cross the natural landscape, severing this important corridor.

#### **GENERAL**

Animal Liberation contends that to the untrained eye, the Applicant's lengthy SoEE, documents and plans will appear comprehensive however, we believe the information submitted by the Applicant is scant, and does not include sufficient detail to enable a comprehensive assessment. Nor does the information provided respond to, or address, all the critical planning criteria, to the level and standard required in line with the relevant planning instruments. Animal Liberation contends the proposed development lacks "merit".

### POINTS OF OBJECTION

- The Applicant has failed to clearly differentiate between the construction and operational phases including the applicable risks and impacts occurring during these separate phases, including the decommission of existing access crossover and driveway. The Applicant's DA and SoEE does not adequately or accurately reflect the full scale of the proposed development, or, the associated risks and impacts of the proposed development, taking into account existing development and operations, and the proposed combined development, which we believe will result in excessive development.
- Animal Liberation contends the proposed development/s should be assessed in the context of the full scope of the existing facility and operations and proposed facilities and operations, to ensure adequate consideration and assessment of the full range of risks, impacts and cumulative risks and impacts.
- In addition to the Applicant's failure to identify, respond to and address all risks and impacts and cumulative risks and impacts, the Applicant has also failed to adequately demonstrate how they would monitor, avoid, minimise, mitigate and manage those risks and impacts they have identified.
  - The Applicant has relied on numerous assumptions and statements indicating they have various levels of "confidence" with many of their non-evidenced control measures other potential risks and impacts are missing entirely. Such omissions and lack of detail prevents decision makers from undertaking a comprehensive, objective and meaningful development assessment, in line with the applicable planning instruments and community expectations. Such omissions also impede sound and effective assessment; and decision making can become problematic, flawed, and can potentially lead to serious, adverse, ongoing, permanent and irreversible consequences.
- The Applicant has failed to adequately address and respond to Section 4.15 of the Environmental Planning and Assessment Act 1979 as follows.
  - the likely impacts of that development including environmental impacts on both the natural and built environments and social and economic impacts in the locality;



- the suitability of the site for the Development;

  any submissions made in accordance with this Act or the Regulations and;
- 3.9.4 the public interest.
- Animal Liberation contends the environmental risks and impacts to the natural and built environments (in addition to social and economic impacts) that will likely emanate from the proposed development, are substantial. Further, the site is unsuitable and the proposed development is not in the public interest. Apart from facilitating the commercial interests of a private business, the proposed development offers minimal benefits to the local community.
  - The Applicant has failed to adequately demonstrate how they would avoid and mitigate environmental harm, (indeed even prior to approval, they have demonstrated willful environmental harm) and have failed to demonstrate either the suitability of the site, or how the proposed development is in the public interest.
- We note the Applicant agrees the proposed development is Integrated development. Animal Liberation disagrees with the Applicant's assertion that this Integrated classification only requires referral to the NSW Rural Fire Service under S100B of the Rural Fires Act 1997. We also disagree with the Applicant's claim that the relevant assessment and management requirements for the mapped bushfire prone land in the north-west and east of the site are adequate. The site is surrounded by other mapped bushfire prone land which the Applicant has completely ignored.
- Animal Liberation contends that the proposed development is also Integrated Development insofar as it involves a series of likely, demonstrated and evidenced risks and potential impact to the local environment and biodiversity.

- We disagree with the Applicant's proposition that the "development application does not trigger any requirements under Designated development criteria." Animal Liberation believes the proposed development should be classified as Designated development given the environmental risks and impacts (notably koalas), is considered high and accordingly, must invoke a greater level of scrutiny as part of the assessment process than would normally be the case.
- Animal Liberation contends that the proposed development is Designated development and that for the purpose of this planning assessment, must be classified and assessed accordingly including, the requirement to compile and submit an Environmental Impact Statement (EIS) in line with the Secretary's Environmental Assessment Requirements (SEARs).
- Section 3 of the Environmental Planning and Assessment Regulation 2000, under Part 2, Clause 36 outlines the relevant 'factors to be taken into consideration'. In forming its opinion as to whether or not development is designated development, a consent authority is to consider:
  - the impact of the existing development having regard to factors including:
    - A previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice and;
    - rehabilitation or restoration of any disturbed land and;
    - the number and nature of all past changes and their cumulative effects.
  - the likely impact of the proposed alterations or additions having regard to factors including:

- A the scale, character or nature of the proposal in relation to the development and;
- the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality and;
- the degree to which the potential environmental impacts can be predicted with adequate certainty and;
- the capacity of the receiving environment to accommodate changes in environmental impacts.

## any proposals:

- to mitigate the environmental impacts and manage any residual risk and;
- to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.
- Designated Development refers to developments that are highimpact developments or are located in or near an environmentally sensitive area, or, are listed in Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) as being designated development.
  - 3.14.1 Schedule 3, Part 2 of the EP&A Regulation also refers to alterations or additions and whether such alterations or additions result in a significant increase in the environmental impacts of the total development.



- It is Animal Liberation's strong and informed view that the proposed development, including 'change of use' and conversion, and taking into consideration the existing operations, the total scale and environmental impact, residual risk and the cumulative effects is Designated development and the applicable SEARs should apply.
- If approved, the proposed development will result in numerous adverse impacts and will pose significant risks to the local environment, biodiversity and ecosystems. The 'precautionary principle' must be applied in environmental planning decision-making with the conservation of biological diversity and ecological integrity being a fundamental consideration. The 'precautionary principle' requires decision-making to give the environment the benefit of the doubt.
- The proposed development is not aligned to ecologically sustainable development ('ESD') and the conservation of biological diversity and ecological integrity processes which forms part of environmental law and inter generation equality. Council, as the consent authority is required to conserve and enhance the community's resources so that ecological processes on which life depends, are maintained, and that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.
  - The proposed development is not aligned to protecting and preserving native habitat where a fundamental consideration should require all planning and decision making to include an Environmental and Species Impact Statement. The Applicant has in fact demonstrated a blatant lack of respect and regard towards the protection and preservation of native habitat.
- Based on an abundance of credible scientific evidence relating to climate change including current and emerging climate and general weather patterns, we are concerned that much of the submitted SoEE information and data, including numerous 'assumptions', has not fully considered climate change and the 'un-predictability' of our environment.

- The Applicant's SoEE states: "This report demonstrates, in the context of relevant Council, state government policies and objectives, and other relevant legislation, the proposal will generate minimal adverse environmental impacts while generating multiple positive impacts. The proposal is considered to be highly consistent with Council strategies, and achieves the key aims and objectives of dwelling houses and rural tourist accommodation in the Byron Shire." Animal Liberation strongly disagrees with the Applicant's non-evidenced assertions.
  - Under the 'Objectives of the Proposal', the SoEE includes: "Protect and enhance the site's ecological systems". Further in the SoEE, it includes reference to measures to "ensure the proposal does not generate adverse impacts on any Aboriginal cultural heritage". In complete contrast, the Applicant has already caused negative impacts to the site's ecological systems, and the SoEE's only reference to Aboriginal cultural heritage is "An AHIMS search resulted in no recognised aboriginal sites or places on the subject site or in the vicinity of the site."
  - The Applicant, in their SoEE confirms that "no native vegetation is to be removed to facilitate the proposed the new dwelling and driveway" and "the proposal does not involve the disturbance of natural ecosystems or any important areas of native habitat." The Applicant has, however, willfully and illegally removed trees (camphors) prior to assessment or any consent authority approval for this DA in an area identified as a wildlife corridor which includes breeding females and joeys. Further, Animal Liberation contends the Applicant's tree clearing has disturbed and destroyed some native vegetation and will, if required, provide council with images to demonstrate this native vegetation destruction.
  - The Applicant's submitted plans depicting the access road states there will be "minimum vertical clearance of 4m to any overhanging obstructions, including tree branches". As the access road is situated close to the protected koala corridor, (includes 44 mature tallowwood trees), branches of mature koala food trees will need to be lopped to achieve this minimum vertical clearance.

- We acknowledge the camphors are not native, however there is abundant scientific evidence to support the fact that these trees provide shade (as per current summer conditions) and safety for koalas. Further, the Applicant undertook this tree clearing without any consent. From the relevant agencies, and a complete lack of concern for the welfare and protection of the koalas on the property and its surrounds.
- The development is not consistent with the aims and objectives Byron Shire Council's Local Environment Plan 2014 ('LEP') or the Development Control Plan ('DCP') as follows:
  - The proposed development does not protect and enhance ecological processes and is not considered consistent with the guiding principles. The proposal is located an ecological sensitive area.
  - The Applicant's SoEE's assertion "No land use conflicts have been identified with adjoining properties" does not adequately demonstrate that sufficient investigation or review of any "conflicts" has been undertaken.
  - The SoEE has not demonstrated that the proposed earthworks will not have any significant detrimental impact on the environment, nor that these earthworks are able to be adequately managed.
  - The Applicant has failed to provide a soil and erosion management plan for assessment.
  - The proposed development is not small scale or low impact and the overall footprint of the proposed works is significant and will have a significant adverse impact on the natural environment.
  - The Applicant has failed to provide a detailed landscaping plan.



- 3.20.7 The submitted SoFF does not serve as an assessment of all potential environmental impacts.
- 3.20.8 The Applicant has failed to address the required 20 metre buffer zone for koala trees as outlined in Council's DCP.
- 3.20.9 The DCP includes requirements for appropriate lighting for koalas, such as 'down lighting' within 30m of koala habitat. We understand neighbours have reported spotlights pointed at trees on the property to enable tourists to view the koalas at night. This constitutes deliberate disturbance of a threatened species sand accordingly contravenes wildlife legislation (Biodiversity Conservation Act 2016).
- 3.21 Animal Liberation contends that enforced compliance with the Development Standards would be both reasonable and necessary.
- 3.22 Animal Liberation contends that the Applicant's assessment of the development in relation to environmental and amenity related matters is inadequate and that the proposed mitigation measures would be ineffective. We believe that moderate and significant adverse risks and impacts would result and indeed have already resulted, and that these considerations have not been appropriately addressed to a level to demonstrate the merits of the proposal, nor demonstrated that the proposal warrants approval.
- 3.23 There is no evidence to confirm the Applicant has undertaken any expected level of consultation with key stakeholders including sensitive receptors, the broad community and notably, the traditional Aboriginal custodians of the land.
  - 3.23.1 Animal Liberation considers the Applicant's cursory and almost dismissive attention to heritage. Aboriginal heritage, and the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, to be highly offensive, and not in keeping with Council's own undertakings, public statements and plans. Further the Applicant appears to be uninformed about the requirements in line with the relevant planning instruments as outlined in the National Parks and Wildlife Act 1997.

- The Applicant has failed to respond to and/or address the generic due diligence assessment steps. As the proposed development will disturb the ground surface, the due diligence process outlined in the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (Cultural Heritage Guidelines) is necessary.
- In line with the mandatory Cultural Heritage Guidelines, it is imperative that the development should not proceed without a detailed Aboriginal Cultural Heritage Assessment (ACHA) or Aboriginal Heritage Impact Permit (AHIP) being undertaken at the Applicant's expense.
  - It is important to note that AHIMS (only) records information about Aboriginal sites that have been provided to Office of Environment, and information recorded on AHIMS may vary in its accuracy and may not be up to date; location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings; some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS. Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
  - It is not sufficient for the Applicant to merely state that "an AHIMS search resulted in no recognised Aboriginal sites or places on the subject site or in the vicinity of the site". The Applicant has failed to seek or obtain other sources of information and indeed has failed to consult at all.
- The Applicant's DA Application Form describes the subject land as RU2 Rural Landcape, yet in complete contradiction, the Applicant's SoEE states the land is RU1 Primary Production land use. Further the Application Form incorrectly notes "the proposed development will not directly impact threatened species, populations, ecological communities or their habitats, in contradiction to the land identified as Red Flag/Ecological Setbacks in the Biodiversity Chapter of Byron Shire Council's DCP.

- The proposed development is situated in a local water drinking catchment and we note, the Applicant's assertion that the western vegetated patch is identified on the NSW Biodiversity Values Map due to the location of Paddys Creek which transverses this part of the site. We believe this to be incorrect, and that Paddys Creek crosses the eastern portion of the site which is mapped on the NSW Biodiversity Values Map.
  - 3.27.1 A previous DA restriction on the use of land, pursuant to the provisions of Section 88E of the Conveyancing Act 1919, has been placed on the title of the land, that subject of this consent, stating: "No works or activities shall be carried out on the burdened land that has a negative impact on the koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1" According to Byron Shire DCP all plantings of koala food use trees and restoration of koala habitat as a result of consent conditions under the Environmental Planning and Assessment Act 1979 are to be protected in perpetuity by an effective legal restriction on the title of the land.
  - The SoEE states: "Water supply for the new dwelling will be achieved by means of roof water harvesting and water tank storage. The central facility building will benefit from existing water storage tanks for water supply." The Applicant has however failed to describe or demonstrate adequate water capacity and storage for fire-fighting purposes.
- We note the 'Bushfire Assessment Report; compiled by Legate Pty Ltd, correctly states: "The proposed development site is classified as bushfire prone land on BSC's Bushfire Prone Land Maps which have been ratified by the Commissioner, NSW Rural Fire Service ('RFS'). An application for a Bushfire Safety Authority is required under section 100B of the Rural Fires Act as this is, under this act, a Special Fire Protection Purpose ('SFPP') development.
  - The same report, however, incorrectly states that "the development is not near a riparian zone, there are no areas of geological interest near the development and there is no evidence of Koala presence near the development." The report also incorrectly states: "There

- are no threatened species, populations, endangered ecological communities or critical habitat known to the applicant or observed at time of assessment. There are no past studies or surveys of this site or the immediate vicinity."
- The Applicant's scant and cursory reference to increased traffic movements is completely inadequate and fails to consider the risks and impacts on critical biodiversity.
- Animal Liberation contends that the SoEE fails the "Test of Significance', as outlined in the Biodiversity Conservation Act 2016 and whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats, and, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction.



## **SECTION FOUR**

DA 10.2021.5.1

## **SUMMARY & CONCLUSION**

"Whenever people are upset about protecting animals, it's usually because they've got a financial stake in not doing so"
- Evan Quartermain (2021)

- In their DA and SoEE, the Applicant has failed to identify, respond to and address all risks and impacts and cumulative risks and impacts, and has failed to adequately demonstrate how they would monitor, avoid, minimise, mitigate and manage these risks and impacts.
- 4.2 We acknowledge and appreciate the technical complexity of this proposed development and the difficulty and challenges faced by even the most experienced planning staff when assessing such information that frequently requires experienced, expert and scientific evaluation. We also note that in line with the applicable legislation and planning instruments, Council is required to ensure the assessment review remains independent, objective and informed during the entire process and that the assessment process is strongly founded on informed opinion and evidence.
- Council is compelled to act impartially and ensure the correct and consistent application of local, state and federal legislation, including the objective and transparent assessment of planning proposals. Councillors are elected to represent everyone in the community, and apply objective, impartial and informed consideration of matters which hold strong public interest.
  - Council as the primary consent authority, is required to thoroughly assess the adequacy of information provided and the measures proposed by the Applicant, to mitigate any potential risks, adverse impacts including cumulative impacts. This is clearly outlined in the Environmental Planning and Assessment Act 1979 which requires Council give due consideration to social impacts and public interest relating to any proposed development. All these considerations are accordingly a necessary and integral part of any comprehensive, objective and meaningful development assessment in line with the applicable planning instruments.

## **SUMMARY & CONCLUSION**

- 4 4 It is imperative that decision makers don't trivialise, dismiss or ignore public interest, or place the unsustainable, short-term, economic benefits of a privately owned commercial business ahead of the welfare of animals, the environment or the long-term best interests of the broad community. We have a clear moral, social and environmental responsibility to protect our shared and fragile environment and all biodiversity, no create additional pressures.
- 45 In addition to the individual risks and impacts outlined in our objection, when combined, these are glaring and serious cumulative risks and impacts where adequate monitoring, avoidance, minimisation, mitigation and management would prove to be problematic and indeed, impossible.
- 4.6 The 'precautionary principle' must be applied in environmental planning decision-making, and conservation of biological diversity and ecological integrity should be a fundamental consideration. The 'precautionary principle' requires decision-making to give the environment the benefit of the doubt. The Applicant's professed benefits to the region are negligible and come with an exorbitant and costly price tag of imminent and serious risks and impacts. There is no justification for the extensive and permanent consequences to our nonhuman animals and the local environment.
- 4.7 Based on the points of objection outlined in section 3 of this submission, it is our strong view that the Applicant has failed to adequately address or respond to the mandatory assessment criteria as outlined in applicable legislation and planning instruments. This assessment and corresponding decision making must take into account, the 'Precautionary Principle' requiring decision-making to give the environment the benefit of the doubt.
- 4.8 Animal Liberation strongly urges the Byron Shire Council decision makers to conclusively refuse the respective DA and apply the maximum allowable applicable penalties for the willful environmental vandalism already undertaken on the site by the Applicant.



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Additional DA documents: Bushfire assessment, Site investigation, Waste water investigation, Site plans and mapping, Basix certificate, Cost of works, Energy rating scheme.

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Aboriginal Lands Right Act 1983

Local Government Act 1993

Protection of the Environment Operations Act 1997

Rural Fires Act 1997

Environment Protection and Biodiversity Conservation Act 1999

Environmental Planning and Assessment Regulation 2000

Biodiversity Conservation Act 2016

Local Land Services Amendment (Miscellaneous) Bill 2020

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From:
To: council

To: council
Subject: Points.docx

Date: Monday, 8 February 2021 9:12:34 PM

Attachments: Points.docx

Sent from my iPhone

From: byroneforms
To: council

 Subject:
 10.2021.5.1 - Submission of Object

 Date:
 Monday, 8 February 2021 10:38:47 PM

Importance: Low

## **Development Application - Submission notification**

Submission ID: BSC-005-488

**DA number:** 10.2021.5.1

Subject address: 75 Rifle Range Rd, Bangalow

Application type: Object

Other details:

**Grounds:** Hi, I like to object to the above DA based on the following points: - There doesn't seem to be adequate data/ review/ survey data on the impacts of the local fauna - namely koala habitat in the clearing of the site. For example, statements don't seem to be backed up by data (eg. statements such as no survey was needed as little or no impact on koalas appear to be unreferenced or remain unsupported). Also - the statement doesn't appear to be cross-referenced to the Council own standards: Chapter B1 (Biodiversity) Byron Shire Development Control Document. - I also understand that the owner has already cleared some of the area - without Council consent. This naivete' or disregard doesn't support that the owner has been in good faith or knowledge of the regulations that Council has set. Hence, some pre-emptive action to stay or pause all construction or works is highly recommended.

Applicant name

Contact phone:

Contact email address:

Contact address:

From: council

Subject: RE: Submission \_ DA 10.2021.5.1 - 75 Rifle Range Rd, Bangalow

Date: Tuesday, 9 February 2021 6:26:40 PM

The General Manager

Byron Shire Council

council@byron.nsw.gov.au

RE: DA 10.2021.5.1 – 75 Rifle Range Rd, Bangalow

## I strongly object to the development application based on the following grounds:

The proposed site access and internal access road will directly and indirectly impact on a protected koala corridor. This corridor was protected **in perpetuity** as part of the conditions attached to the planning consent for the previous DA on the property. The wording of this states that:

"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."

- There will be direct loss of sections of the protected koala corridor at the new access point from Rifle Range Road, as well as for a link road from the new access to the proposed Central Facility Building. Any branches overhanging the access road will also be lopped to a minimum height of 4m.
- The application form for the DA and Statement of Environment Effects (SEE) clearly state that there will be no impacts on native vegetation, and that no tree work and/or pruning is proposed, which is clearly not the case. The SEE also claims that the DA is compliant with the requirement to locate development "so that it does not disrupt environmental enhancement projects on the land" as "no environmental enhancements are noted". Again, this is clearly not the case as the protected corridor forms part of the environmental enhancement works carried out as part of the previous DA.
- The location of the access road, directly adjacent to, and through, the protected corridor, also means the koalas will regularly have to cross the road to travel between existing vegetation to the west and east, increasing the risk of them being hit by a car in the process. Although a speed restriction of 40km an hour is proposed for the access road, a koala hit at this speed can still be severely injured or killed. Consent for the previous DA at the site stated that speed on internal roads would be restricted by signage to 20km to protect native fauna. Signage alone is not an effective means of controlling speed, so speed bumps would need to be incorporated into any internal access road.
- The proximity of the access road to the protected koala corridor will also cause

potential disturbance to koalas using these trees and an increase in traffic generated by the tourist facility will increase the risk of koalas being hit and killed by cars.

The SEE claims that the development would have low or no direct impact on koalas, so no koala survey is required but it failed to assess the DA against the requirements of Chapter B1 (Biodiversity) of the Byron Shire Development Control Document.



From:

To: council

**Subject:** DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow **Date:** Tuesday, 9 February 2021 10:28:53 AM

Attachments: North Coast Environment Council Inc Bangalow Koalas.pdf

Dear Mr. Ben Franklin,

Please find NCEC attached submission and we appreciate your consideration to our comments.

Kind regards,







council@byron.nsw.gov.au

## **DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow**

Dear Mr. Ben Franklin and Byron Planning Department,

he North Coast Environment Council is the peak regional conservation group on the NSW North Coast which has been active in protecting the environment for more than forty years.

We are writing regarding the DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow development application. We understand that this site has active koala and is part of a corridor. The koala is listed as vulnerable in NSW and after the devastating fires of 2019/2020 it is crucial we avoid impacting on them until we give them a chance to recover.

The current DA will cut through a vital link in the koala corridor and increase the amount of traffic that will be accessing the site in a highly sensitive area in all likelihood leading to an increase in koala deaths.

We urge the Byron Shire Council reject this application for koala habitat and feed tree removal and continue to improve outcomes for our vulnerable koala.

Faithfully yours,



From:
To: council

 Subject:
 DA 10.2021.5.1 - 75 Rifle Range Road

 Date:
 Thursday, 11 February 2021 2:31:12 PM

Late submission for DA

I'm strongly opposed to clearing in koala habitats.

I'm writing to simply add people power in the hope that this person is held accountable.

Fiona Anderson

Sent from my iPhone

From:

submissions@byron.nsw.gov.au; council To:

ballina@parliament.nsw.gov.au; Justine.Elliot.MP@aph.gov.au Cc:

DA 10.2021.5.1 - 75 Rifle Range Rd Bangalow Subject: Date: Monday, 1 February 2021 8:35:16 AM

Attachments: P1314030.ipeq

P1314035.ipeq

#### To the council:

## Hello.

Yesterday I had a look at the above named property and saw the destruction the owner has already caused. His exhibition period is only ending tomorrow, yet he has removed trees already. He has removed trees, that are on council land, trees that are part of a Koala corridor. Bangalow Koalas has been working so hard to establish and create more corridors around the wider area to give Koalas a fighting chance, yet, here comes someone, that thinks laws doesn't apply to him and clears away. Supposedly the trees were "ONLY" camphors, but it is proven, that Koalas use these trees for shade and rest and what better prove is there than spotting a Koala in a camphor only meters away from the destruction yesterday!!!! I will attach pictures. Also, if they are on council land, how can they be cleared without permission?

Seeing this Koala right there, makes me fear, that one or even some could have perished in the huge pile of wood rubble...no one will ever know...as far as I am aware, shouldn't there be wildlife spotters, when felling occurs???

There is urgent need for consequences to that kind of behaviour. This is wrongful doing and needs to be punished. If council is lenient with this kind of behaviour, it will mean the end of many more Koalas (who are already in a dire situation across all of Australia), as landholder will know, that they can do as they please without having to fear the consequences!!!!!

The property already has an existing driveway, which could have easily been used for the plans the owner has. He could create a fork/turnoff from this existing driveway towards his proposed new build, without clearing big trees. This needs to be looked into carefully.

However, the damage is done and it is saddening, so the only right thing for you, the council, to do now, is to act fast and hard towards this landholder, so that he and future potential offenders realise that there is punishment for breaking the law.

Thank you for your time.

I cc'd federal and state officials for acknowledgment.

Hopeful, but with a sad heart,

This is the Koala in the camphor only meters away from the felling area...on the right is the view to the tree, the Koala is in (I am standing next to the cleared area).





