

Our Ref: ID 1971
Your Ref: Ref-2217

21 June 2023

Kate Campbell
Northern Region
Local and Regional Planning
Department of Planning and Environment

via email: Planning Portal

Dear Kate,

Planning Proposal PP-2021-5283 for 103 Yagers Lane, Skinners Shoot

Thank you for the opportunity to provide comment on the Planning Proposal for 103 Yagers Lane, Skinners Shoot in Byron Shire LGA. It is understood that the proposal seeks to obtain permission for a dwelling entitlement and associated detached dual occupancy on Lot 8 DP 8385 with development consent.

The NSW State Emergency Service (NSW SES) is the agency responsible for dealing with floods, storms and tsunami in NSW. This role includes, planning for, responding to and coordinating the initial recovery from floods. As such, the NSW SES has an interest in the public safety aspects of the development of flood prone land, particularly the potential for changes to land use to either exacerbate existing flood risk or create new flood risk for communities in NSW.

The consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.3 – Flood Prone Land and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005 (the Manual). The NSW Independent Flood Inquiry 2022 made 28 recommendations which have been accepted fully or in principle by the NSW Government. NSW SES encourages the implementation of the Ministerial Section 9.1 Directions, including 4.1 – Flooding and the NSW Flood Prone Land Policy in the Manual.

Attention is drawn to the following principals outlined in the Manual which are of importance to the NSW SES role as described above:

- **Zoning should not enable development that will result in an intolerable increase in risk to life, health or property of people living on the floodplain.**

Additional information regarding flooding is required for the NSW SES to be able to give advice on flood risk for this proposal. Information should include mapping illustrating inundation of the site and the access/egress routes (including the type of

flood event, frequency and duration which impact Yagers Lane and Skinners Shoot Road which will affect the access).

It is essential for emergency management to have the results of the full range of events including potential changes to velocity and time of inundation which impact the site and surrounding access roads. Flow paths which are safe during lesser events may lead to catastrophic flooding for these rarer events.

Although the dwellings may meet flood planning level requirements it quickly becomes isolated as access and egress for evacuation routes are closed due to floodwater. Skinners Shoot Road, the only access road to the site is inundated from the 20% AEP event. The frequency of flooding also contributes to the flood risk. Any floodwater on a site will affect the occupants to some degree. The more often people evacuate, the greater the cumulative exposure to wading or driving through floodwater.

- **Risk assessment should consider the full range of flooding, including events up to the Probable Maximum Flood (PMF) and not focus only on the 1% AEP flood.**

The flood modelling has not been provided with the documents in the NSW Planning Portal (PP-2021-5283). Flood modelling information available to Council indicates that the majority of the site (including the site of the existing dwellings at 30m AHD) is not inundated during the Probable Maximum Flood (PMF). However, this should be confirmed in the planning proposal.

- **Risk assessment should have regard to flood warning and evacuation demand on existing and future access/egress routes. Consideration should also be given to the impacts of localised flooding on evacuation routes. In the context of future development, self-evacuation of the community should be achievable in a manner which is consistent with the NSW SES's principles for evacuation. Future development must not conflict with the NSW SES's flood response and evacuation strategy for the existing community. Evacuation must not require people to drive or walk through flood water.**

Access to the site during a flood is lost as Skinners Shoot Road is inundated during frequent flood events. If residents remain in the area, they may be trapped, and it may be too dangerous for NSW SES to conduct rescues or resupply. The secondary risks of flood waters can include infectious diseases, sewerage, chemical hazards, electrical hazards, displaced wildlife, and debris such as glass and metal that can cause injury.

- **Development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation.**

The statement that *'there is no need to evacuate during a flood given the site has land above the PMF¹* is not always correct. In some instances, for example where loss of

¹ Planning Proposal 26.2021.6.1 Action 3.1 page 7 Oct 2022

essential services are likely, NSW SES may evacuate a community, in particular particularly vulnerable community members.

During flooding it is likely that there will be a reduced capacity for the relevant emergency service agency to respond in these times. Even relatively brief periods of isolation, in the order of a few hours, can lead to personal medical emergencies that have to be responded to.

- **Development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.**
- **The NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.**

You may also find the following Guidelines, originally developed for the Hawkesbury Nepean Valley and available on the NSW SES website useful:

- [Reducing Vulnerability of Buildings to Flood Damage](#)
- [Designing Safer Subdivisions](#)
- [Managing Flood Risk Through Planning Opportunities](#)

Please feel free to contact Gillian Webber via email at should you wish to discuss any of the matters raised in this correspondence. We would be interested in receiving information regarding the outcome of this proposal in the future.

Yours sincerely,



Elspeth O'Shannessy
A/Hawkesbury Nepean Advisor and Future Risk Team Leader, Emergency Risk Management
NSW State Emergency Service



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (REF-2216) PP-2021-5283
Our reference: SPI20230522000069

ATTENTION: Dylan Johnstone

Date: Friday 16 June 2023

Dear Sir/Madam,

Strategic Planning Instrument LEP Amendment - Planning Proposal

To amend Byron LEP 2014 to permit a dual occupancy with consent on Lot 8 DP 8385. In accordance with Clause 4.2A of Byron LEP 2014, a dual occupancy is not currently permitted with development consent on the land as it does not have a dwelling entitlement. The site contains an existing unauthorised dual occupancy (detached).

I refer to your correspondence dated 22/05/2023 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The proposal permits an increase in residential density and whilst this does not necessarily require a subdivision approval the same principles and criteria would apply. This includes ensuring an APZ based on a radiant heat threshold of 29kW/m² for any new dwellings, along with suitable provision for construction, access, water and landscaping.

A desktop assessment indicates that this site has the capacity to meet these requirements. Any subsequent applications related to this proposal should include a Bush Fire Assessment Report that not only addresses the detached dwelling but also demonstrates a better bush fire outcome for the existing dwelling. This should include consideration of any required upgrades that may include, but are not limited to, protection from embers.

For any queries regarding this correspondence, please contact David Webster on 1300 NSW RFS.

Yours sincerely,

Allyn Purkiss
**Manager Planning & Environment Services
Built & Natural Environment**

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02 June 2023

File No: NTH23/00256/01
Your Ref: 2220

General Manager
Byron Shire Council
70 Station Street
Mullumbimby NSW 2482

Attention: Dylan Johnstone

Butler Street (MR545): PP-2021-5283, To amend Byron LEP 2014 to permit a dual occupancy with consent on Lot 8 DP 8385., Lot: 7&8 DP: 8385, 103 Yagers Lane Skinners Shoot

I refer to the abovementioned Planning Proposal referred to Transport for NSW (TfNSW) on 31 May 2023 for comment.

TfNSW key interests are the safety and efficiency of the transport network, the needs of our customers and the integration of land use and transport in accordance with the *Future Transport Strategy*.

Butler Street (MR545) is a classified Regional road and Yagers Lane and Skinners Shoot Road are local roads. Council is the roads authority these both roads and all other public roads in the area, in accordance with Section 7 of the *Roads Act 1993*.

TfNSW has reviewed the information provided and raises no objection to, or requirements for, the proposed development as it is considered there will be no significant impact on the classified (State) road network.

Should you require further information please contact Tim Chapman, Development Services Case Officer, on [REDACTED] or [REDACTED] or by emailing development.north@transport.nsw.gov.au.

Yours faithfully



Court Walsh
A/Team Leader Development Services
North Region | Community & Place
Regional & Outer Metropolitan

OFFICIAL