

## ATTACHMENT 7

### Public Submissions Summary & Staff Response

Council (Planning) Meeting 10 August 2023

103 Yagers Lane Planning Proposal & Planning Agreement

Submissions of Objection Summary		
Item #	Issues Raised	Council Staff Response
1.	<p><b>Fire hotspot</b></p> <p>The land is mapped as Bush fire prone Land and contains vegetation category (1). The proposal is at the end of a 4 metre wide pavement road with no turn around area for Fire trucks.</p> <p>Climate Change is not addressed in this report on safety of occupants if the APZ areas are not increased.</p> <p>The report fails to address how the fire trucks can safely enter and exit the property.</p>	<p>The Planning Proposal was notified to RFS during the exhibition period.</p> <p>RFS provided a response which is included in Attachment 4.</p> <p>The RFS response is summarised as follows:</p> <p><i>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.</i></p> <p><i>This includes ensuring an APZ based on a radiant heat threshold of 29kW/m<sup>2</sup> for any new dwellings, along with suitable provision for construction, access, water and landscaping.</i></p> <p><i>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.</i></p> <p><i>This should include consideration of any required upgrades that may</i></p>

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		<p><i>include, but are not limited to, protection from embers.</i></p> <p>Therefore RFS have advised that the site is capable of meeting bushfire safety requirements. A future development application that seeks consent for the use of the existing dual occupancy (detached) will require the inclusion of a Bush Fire Assessment Report.</p>
2.	<p><b>Unmapped High Value vegetation</b></p> <p>Byron Shire Council is responsible for actioning a review of the Byron Shire Biodiversity Conservation Strategy and finalising a Pest Management Strategy.</p> <p>Byron Shire Council is also responsible for implementing a Koala Plan of Management and Flying Fox Camp Management Plan.</p> <p>We believe these strategies and plans are compromised by the Planning Proposal. While there may be no koalas identified on the site, the mapping suggests they are active along part of the length of skimmers shoot rd.</p>	<p>The Byron Coast Comprehensive Koala Plan of Management was adopted by Council at the Ordinary Meeting on 4 August 2016 and applies to the coastal portion of the Byron Local Government Area.</p> <p>The subject site is located within the koala planning area identified in the KPoM but is not located in a Koala Management Precinct and does not contain mapped koala habitat.</p> <p>Therefore no further investigation regarding impacts on koala habitat is required.</p> <p>The Byron Shire Flying-fox Camp Management Plan 2018-2023 has been prepared to guide the management of five separate flying-fox camps within the Byron Local Government Area.</p> <p>The subject site is located approximately 1.8km from the nearest known flying-fox camp (Beech Flying-fox Camp) therefore no further investigation regarding impacts on flying-foxes is required.</p>

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3.	<p><b>Traffic and roads</b></p> <p>Skidders Shoot road has approx. 781 vehicles/day (20/21 traffic counts). The road formation ranges from 5m -6m and is sealed.</p> <p>Council adopted engineering standards require a road formation for such daily traffic flows to be a 7M seal with 1 metre shoulders.</p> <p>The community have often complained to Council that areas of Skidders Shoot road present danger for children cycling to and from school and horse riders, the pavement width is a huge problem and with additional traffic load exacerbates the need for caution against further accidents on our road.</p> <p>The road was upgraded in 2012, funded by Essential energy, as part of the substation construction under a direction from planning NSW (Part 3A). 11 years later, the condition of the road has deteriorated and is in desperate need of a resurface and some clearing of shoulders etc.</p>	<p>The planning proposal has been assessed by Council's development engineers.</p> <p>Staff acknowledge that the current Skidders Shoot Road formation does not comply with Council's standards, however this is irrespective of whether the existing dual occupancy is permitted to remain on the subject site.</p> <p>Yagers Lane is not expected to carry more than 150 veh/day. The road formation is approximately 4m and is sealed with grassed verges. Council's adopted engineering standards (The Northern Rivers Local Government Development Design and Construction Manuals) require a road formation of a 6m seal with 0.5m gravel shoulders.</p> <p>Whilst Yagers Lane is below the recommended formation standard, irrespective of the existing dwellings on the site, it is reasonable for the current formation to serve the additional 15 trips for a dual occupancy development. The demand for passing of vehicles is low, however the grassed verges are suitable for passing if needed.</p> <p>General road maintenance concerns in relation to Skidders Shoot Road and/or Yagers Lane should be raised with Council's Infrastructure Services and are not relevant to the subject planning proposal.</p>

<p>4.</p>	<p><b>Contribution</b></p> <p>The road contributions for the upgrade to Council engineering standards should be nominated in the planning agreement of Council.</p> <p>Council has negotiated a \$40,000 contribution for the entitlement which seems very low remuneration for the high land value return the owner obtains for a dual occupancy dwelling entitlement and additional land use rights that is provided by the change of land use in the LEP.</p> <p>(Please note that these buildings have been only used for Commercial tourist accommodation. They have not been owner occupied or for permanent rental.)</p> <p>We request that Councillors resolve to apply different terms to the agreement as it is unreasonable that buildings that were erected without benefit of council approvals, compliance inspections, Plumbing inspections, Sewer Approvals are subject to BCA or BASIX. That dwellings must be measured by the same high bar as citizens that apply through proper channels of the dwelling approval processes.</p>	<p>If a dual occupancy is permitted on the site, this will create additional demands on rural roads, community facilities, open spaces etc. Such demands are captured by the Byron Shire Developer Contributions Plan 2012 which requires a monetary contribution in accordance with the Plan and Section 7.11 of the Environmental Planning and Assessment Act 1979.</p> <p>Ordinarily contributions would be paid at the time of subdivision for creating a lot with a dwelling entitlement equivalent to one Standard Dwelling Unit (SDU) which equates to \$20,000 in the Byron Bay / Suffolk Park catchment. However, for the purposes of this planning proposal, there is no clear mechanism within the Contributions Plan for applying developer contributions.</p> <p>The submitted planning proposal included a letter of offer to enter into a planning agreement with Council. The offer proposes payment of a monetary contribution equivalent to two SDUs which equates to \$40,000.</p> <p>Council staff have no justification to require additional contributions over and above the demand normally generated for a rural dual occupancy under the terms of the Contributions Plan 2012.</p> <p>A future development application will need to demonstrate a suitable onsite sewage management system, and compliance with BASIX requirements and the Building Code of Australia.</p> <p>Any future development consent granted for the use of the existing dual occupancy may be subject to</p>
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		conditions prohibiting use for short term rental accommodation or tourist and visitor accommodation.
5.	<p><b>Historical uses of the site</b></p> <p>As the council is aware the subject site was used as a piggery for many years. While the contamination report briefly mentions this past use, the report is compromised by the limited samples of soil taken across the whole property (only 2 samples were taken around the dwellings seeking gateway). The report also fails to mention the many asbestos sheds that are existing on the site. It is incredible that a contamination report does not mention asbestos buildings located on the property! There are old time residents who reside at Skinners shoot who worked at the piggery many years ago who have a wealth of information about the past activities of the site.</p> <p>Council and Planning NSW need to be aware of this and ensure proper steps are undertaken to remove the asbestos safely before this planning proposal proceeds to the next step. I believe the contamination report is flawed and insufficient.</p> <p>Obviously, Council is aware of these buildings (and previous uses) from past site compliance inspections, yet none were mentioned in the October 2022 council meeting report about this proposal. Furthermore, upon</p>	<p>The submitted Preliminary Contaminated Land Assessment prepared by Greg Alderson &amp; Associates was assessed by a Council Environmental Health Officer and it was determined that the existing dwelling envelopes are suitable for use as a dual occupancy (detached).</p> <p>Potential contaminants, including asbestos, located elsewhere on the site are not an assessment matter for the subject planning proposal.</p> <p>Safework NSW is the regulatory authority for matters relating to the removal of asbestos from the property.</p>

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	<p>inquiries that were made Planning NSW about the past history of the site/ asbestos/contamination, they were unaware about any of the past historical uses and potential contamination.</p>	
6.	<p><b>Does not address housing shortage/ bigger plans for site</b></p> <p>Our community held a Residents meeting on 12/10/22 attended by the owner, and their architect presented their future vision for the land once the Gateway would be approved.</p> <p>This development proposal raised grave and worrying concerns from our community which were;</p> <p>Traffic Movements; no thru traffic means quadruple car movements on road. (uber- in out, out in )</p> <p>How will the four on site business be marketed;</p> <p>1/ 45 seat restaurant three lunch, three dinner. Which Liquor licences will be applied for?</p> <p>2/ shop 6 am-11pm</p> <p>3/ Artisan space ?? studios, yoga, alternative workshops</p> <p>4/ Roadside Stall</p> <p>A total development cost of the proposal was not nominated.</p> <p>In conclusion, for all the above reasons we do not support the Gateway proposal as presented</p>	<p>The subject planning proposal relates to the existing dual occupancy located on the land and these concerns regarding future use of the land are not relevant to the matter currently before Council.</p>

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	<p>and request that more information is sought on Fire safety, Unmapped Vegetation, Road Safety, asbestos removal and contamination remediation from past piggery activities of this site</p> <p>This Gateway approval is not being applied for for the housing shortage or rental crisis but an opportunity to develop commercial businesses on the land into the future.</p>	
7.	<b>Noise and light impacts</b>	<p>The existing dwellings are located a minimum 170m from the nearest dwelling and are not located in a visually prominent location. Therefore the proposal will have negligible noise or light impacts.</p>
8.	<p><b>Pedestrian safety and Parking</b></p> <p>Previously raised with Council the appalling pedestrian safety problems occasioned by the lack of footpaths and bicycle paths from the town and the Travel Facility to the Arts Factory. Day and night, backpackers walk in the middle or wrong sides of the roads in all weathers. Indeed, I believe Council are under an obligation to inform its insurers of the severe safety risk it is taking every day. This is due to Council failing to clear the existing, or provide sidewalks there.</p> <p>Additionally, despite “No Standing” signs at the beginning of Skinners Shoot Road, when functions are held at the Arts Factory, panel</p>	<p>Pedestrian safety matters should be raised with Council’s Infrastructure Services and parking matters should be raised with Council’s Public and Environmental Services staff.</p> <p>These matters are not relevant to the subject planning proposal.</p>

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	vans are parked illegally, making bicycle, pedestrian and fire-truck access, either impossible or exceedingly dangerous. The Council has thus far failed to enforce the “No Standing” rules.	
	<u>Recommendation</u> : No changes are required to the planning proposal as a result of the issues raised above.	