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31st January 2017

Our reference: 1431.2256

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

Dear Sir

RE: Development Application 2017/742 – 219 The Saddle Road, Brunswick Heads

PLANNERS NORTH has been engaged by the registered proprietor of Lot 3 DP631177 to review the Development Application documentation lodged in support of DA 2017/742. The Development Application Form says that consent is sought for alterations and additions to the existing dwelling, new dual occupancy dwelling and two studios. The DA documentation also purports that some other facilities already erected or proposed to be erected on the site are “exempt development”.

In relation to the material placed on public exhibition, we observe:

1. no landowners consent is contained in the exhibition material;
2. no Statement of Environmental Effects (SEE) documentation has been submitted in support of the construction of studios. Chapter D2 of Council's Development Control Plan sets out particular standards in relation to studio development. None of those requirements have been addressed;
3. the waste water assessments for the studios speak of the load by "staff", suggesting that the studios are a commercial venture, not a use ancillary to a dwelling.
4. the proposal seeks consent for use of one of the studios for naturopathy. In our view, a naturopath's clinic is a “Health Services Facility” – Medical Centre. A Medical Centre is a use which is prohibited at the site;
5. in relation to the second studio, it is said to be for Pilates and exercise. Pursuant to Clause D2.7 of Byron DCP 2014 Chapter D2, studios are meant for activities which may not be suitable in a dwelling house. Given the size of the existing dwelling house and proposed alterations and additions, and the size of the proposed dual occupancy, it would seem abundantly clear that there is more than sufficient space within such dwelling houses for exercise activities. This observation further reinforces the concept that the studios are in fact for commercial use. Put simply, the proponent has not demonstrated the studios are required for an activity that is not practical to undertake within the confines of a dwelling;
6. the proponent has not demonstrated the studio is incapable of separate habitation. In fact, the studios proposed have an architectural character which is much more akin to a small dwelling than to a conventional studio;
7. the summary of existing land uses at Section 1.1 of the SEE specifies the windmill as exempt development pursuant to Division 1, Subdivision 41 of the Codes SEPP. This is of course not correct in

that windmills are only exempt if they are located at least 20m from any road boundary. The plan submitted with the Development Application illustrates the windmill located within 20m of The Saddle Road reserve;

8. the proposed 3 bedroom dual occupancy is located some 365m away from the existing dwelling. This represents a 265% variation to the development standard. The basis for that objection to this standard is underwhelming;
9. given the soil and slope characteristics of the land proposed for the dual occupancy, and that fact that the building severs land identified for agricultural uses, we think it is erroneous to say that *"the proposed development will not impact on the use of the land for agriculture..."*;
10. the main contention in support of the variation to Clause 4.2D of the LEP relates to *"all of the land within 100m of the existing dwelling is physically constrained and unsuitable for a new dwelling..."*. A cursory site inspection and by reference to Figure 4 in the SEE, it will be clear that land of suitable grade exists fronting Saddle Road, which could be utilised for the dual occupancy.
11. the application proposes the use of 2 x 10KV wind turbines to support electricity to the new dwellings and farm buildings. It is said in the SEE that the wind turbines are exempt development. We respectfully suggest that a careful reading of the Infrastructure SEPP shows that only a single wind turbine can be erected on a lot utilising the exempt development provisions; and
12. at Section 5.11 of the SEE, the archaeological potential of the land is dismissed on the basis of a single AHIMS search. We respectfully submit that reliance on this AHIMS search documentation is disingenuous, given that the owners of the property are aware of the advice of professional archaeologists that the subject land should be further investigated.

Should Council require any additional information or wish to clarify any matter raised by this letter please feel free to contact the writer at any time.

Yours faithfully,

PLANNERS NORTH



Stephen Connelly RPIA (Fellow)

PARTNERSHIP PRINCIPAL

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