
From: mariethebay@gmail.com on behalf of Marie Lawton NRRT Inc.
<marie.lawton@northernriversrailtrail.org.au>
Sent: Wednesday, 1 August 2018 1:46 PM
To: council
Subject: Attention General Manager

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

Re: DA-10.2018.342.1

Proposed new secondary dwelling at 5 Luan Court Byron Bay NSW 2481.

As a resident of 59 Lilli Pilli Drive Byron Bay, and therefore neighbour of the above mentioned property, I write to object to the development proposed in DA 10.2018.342.1, and particularly the removal of the tree on Council reserve.

The DA seeks to build an elevated dwelling that will clash with the current streetscape and remove the existing green frontage of the property provided by two large trees.

The State of Environmental Effect (SEE) advises that *'there are 2 large trees to the NWest that will block a lot of solar access and therefore it is requested that these be removed. One however is on Council Reserve'*.

I strongly object to the removal of the large tree on Council reserve.

The SEE concludes that *'the proposed development does not impact on the existing natural or built environment adversely'*. This is certainly not the opinion of the local residents.

The proposed elevated dwelling would clash with the existing street. Should the trees be removed, particularly the one on Council reserve, there would be no buffer, visual, auditory, environmental or otherwise between the new building and the rest of the street. This would greatly impact on the character of the street and the nature reserve that Lilli Pilli prides itself to be.

The trees considered for removal provide substantial morning shade for this cul de sac, and make it an inviting green public space, where children play and residents interact. Such public spaces are critical in creating a sense of community and helping residents engage with the neighbourhood. One would also imagine that they provide welcomed privacy for the tenants of 5 Luan Court.

Importantly, these trees are hosts to numerous species of birds, insects, possums and more. They are adjacent to native trees and form a corridor along which the wildlife can move from tree to tree, nest, feed, cross pollinate, etc. This area is also a known habitat of the endangered Mitchells' Rainforest snail.

Loss of vegetation and habitat on private land in NSW is well documented. Let us not add to it by removing a tree on Council reserve that contributes to biodiversity, social and amenity value to our neighbourhood, because a private land owner is concerned about shade on their property.

There has been tree clearing (including koala trees) at 3 Luan Court. If this proposed development goes ahead, 5 Luan Court will become a block of land with virtually two full size houses on it and very little in the way of other space. This style of high density housing development is very much out of keeping with this neighbourhood.

We urge Council to a) resist requests from private developers to cut down public vegetation for personal gain and b) preserve the nature and character of one of Byron Bay's most authentic suburbs.

Yours sincerely

Marie Lawton

59 Lilli Pilli Drive

Byron Bay NSW 2481



Marie Lawton - Public Liaison/Treasurer NRRT assoc.

www.northernriversrailtrail.org.au

Let's Make It Happen! Click here and support the Rail Trail.

From: A Villeseche <slikette@gmail.com>
Sent: Wednesday, 1 August 2018 2:17 PM
To: council
Subject: Submission against DA 10.2018.342.1
Attachments: Council reserve tree at 5 Luan Crt Trees_LL.jpg; Mitchell snail.jpg

Dear Council,

I just lodged a submission against DA [10.2018.342.1](#) via your website, but your system did not allow me to add supporting files. I am therefore resending this submission together with the 2 files (photographs) I refer to in my submission.

Thank you and kind regards

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To whom it may concern

Re: [DA-10.2018.342.1](#)

Proposed new secondary dwelling at 5 Luan Court Byron Bay NSW 2481.

As residents of 11 Luan Court Byron Bay, and therefore immediate neighbours of the above mentioned property, we write to object to the development proposed in DA [10.2018.342.1](#), and particularly the removal of the tree on Council reserve.

The DA seeks to build an elevated dwelling that will clash with the current streetscape and remove the existing green frontage of the property provided by two large trees.

The State of Environmental Effect (SEE) advises that *'there are 2 large trees to the NWest that will block a lot of solar access and therefore it is requested that these be removed. One however is on Council Reserve'*.

Whilst we regret that the owners should want to remove a large established tree on their property, we are outraged that they should request to remove a large tree on Council reserve and **strongly object** to it. If the main reason to remove those trees is, as stated, to allow greater solar exposure, then we suggest that the new building be set further back on the property, instead of being as close as possible to the street. There is ample space for this.

The SEE concludes that *'the proposed development does not impact on the existing natural or built environment adversely'*, which could not be further from the truth. In fact, such a conclusion could only be reached by someone who has not been to the site, does not intend to live there and/or has no consideration for the neighbourhood; it is certainly not the opinion of the local residents.

As stated before, the proposed elevated dwelling would clash with the existing streetscape (please see the submission by local resident and architect Fin Murray for images). Should the trees be removed, particularly the one on Council reserve, there would be no buffer, visual, auditory, environmental or otherwise, between the new building and the rest of the street. This would greatly impact on the character of the street, and the nature reserve that Lilli Pilli prides itself to be.

The trees considered for removal provide substantial morning shade for this cul de sac, and make it an inviting green public space, where children play and residents interact (see attached photos). Such public spaces are critical in creating

a sense of community and helping residents engage with the neighbourhood. One would also imagine that they provide welcomed privacy for the tenants of 5 Luan Court.

Importantly, these trees are hosts to numerous species of birds, insects, possums and more. They are adjacent to native trees and form a corridor along which the wildlife can move from tree to tree, nest, feed, cross pollinate, etc. This area is also a known habitat of the endangered Mitchells' Rainforest snail (see attached photo of snail found at 11 Luan Court).

Loss of vegetation and habitat on private land in NSW is well documented. Let us not add to it by removing a tree on Council reserve that contributes to biodiversity, social and amenity value to our neighbourhood, because a private land owner is concerned about shade on their property.

We note that the purpose of the new building is not explicit. Whilst the previous DA stated clearly that the building was not intended for holiday letting, this DA makes no such statement. We would strongly oppose the addition of a short term holiday letting residence on a property where noise issues associated with the current tenants have already been referred to the police and the rental agency.

In addition to the issues expressed so far, we are also greatly concerned by the likely increased traffic and parking issues associated with additional residents on this property. We have observed that the tenants of the existing dwelling and their visitors have multiple cars, some parked on the street and others on an undeveloped block of land adjacent to the property. Luan court has limited street parking. The addition of a residential dwelling will increase the parking load to potentially seven or eight vehicles for a single residential property.

There has been ugly development allowed to proceed at the end of Lilli Pilli Dve, as well as total tree clearing (including koala trees) at 3 Luan Court. If this proposed development goes ahead, 5 Luan Court will become a block of land with virtually two full size houses on it and very little in the way of other space. This style of high density housing development is very much out of keeping with this neighbourhood.

We urge Council to a) resist requests from private developers to cut down public vegetation for personal gain and b) preserve the nature and character of one of Byron Bay's most authentic suburbs.

Thanking you in anticipation,

Yours sincerely

Annie Villeseche and Steven Skov

11 Luan Court

Byron Bay NSW 2481





1st Aug 2018

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

Re: Council File Ref: DA-2018/342.1
Proposed new secondary dwelling at 5 Luan Court Byron Bay NSW 2481.

Dear Sir,

We appreciate the owners right to develop the aforementioned site, and are aware of the need for affordable housing options within the Byron Shire.

We do however object to the proposal in its current form for 3 reasons:

1. The visual impact on the streetscape.

The proposal has no visual relationship to the built form context of the street, or to the existing dwelling, as follows:

- the scale is approximately double the height of the existing dwelling (which is single storey)
- the built form shows no relationship to the existing dwelling (which has a hipped roof form)
- the orientation of the proposal is inconsistent with the existing dwelling (which is aligned with the main axis of the street).

Side note: the applicant states that the proposal has a GFA of 60 square metres. This appears incorrect. If measured under the SEPP definition it is in excess of 65sqm. If measured under the Byron LEP 1988 definition it is 65sqm. This is easily checked with the dimensions shown on the floor plans.

2. The negative economic impact on the value adjacent properties

The proposal would likely have a negative impact on the value of surrounding properties, by vastly altering the existing character of what is a leafy cul-de-sac with houses well set back from the street. The proposal (with tree removal) would result in a visually over-developed appearance, with bulky built form which is out of character with the scale and setbacks of the existing dwellings in the street. All other existing 2 storey structures are well set back.

3. The social and amenity impacts of tree removal

The proposed removal of 2 large, mature fig trees will cause a severe loss of amenity in our cul-de-sac, for the people who live here and use it as a public space, every day. No compensatory measures have been proposed by the applicant.

One of the trees proposed to be removed is in the road reserve. This tree is part of the public domain and is not on the subject property.

Side Note: The site is zoned DM/ Deferred Matter in the 2014 LEP. Pursuant to Clause 1.8A of the Byron LEP 2014, the plan applicable to the site and to this DA is the Byron LEP 1988. Under the provisions of this plan, the proposal would be for an additional dwelling to create a detached dual occupancy, not a 'secondary dwelling'

Secondary dwellings are not mentioned in the 1988 LEP. The proposal, if assessed under the 1988 LEP, would be for a dual occupancy comprising of 2 separate dwellings.

If the application is assessed under the 1988LEP and 2010DCP it cannot possibly meet the parking requirement of 3 spaces (1 for a new dwelling under 75sqm and 2 for the existing dwelling which is circa 184.3sqm). The DCP clearly states that parking cannot be provided within the setback. It would not be possible to accommodate more carparking on site with the proposal in its current form.

As the development would be completely non-compliant with the provisions of the DCP 2010 as relates to parking, it is assumed for the purposes of this submission that the proposal for a secondary dwelling is made under SEPP (Affordable Rental Housing) 2009.

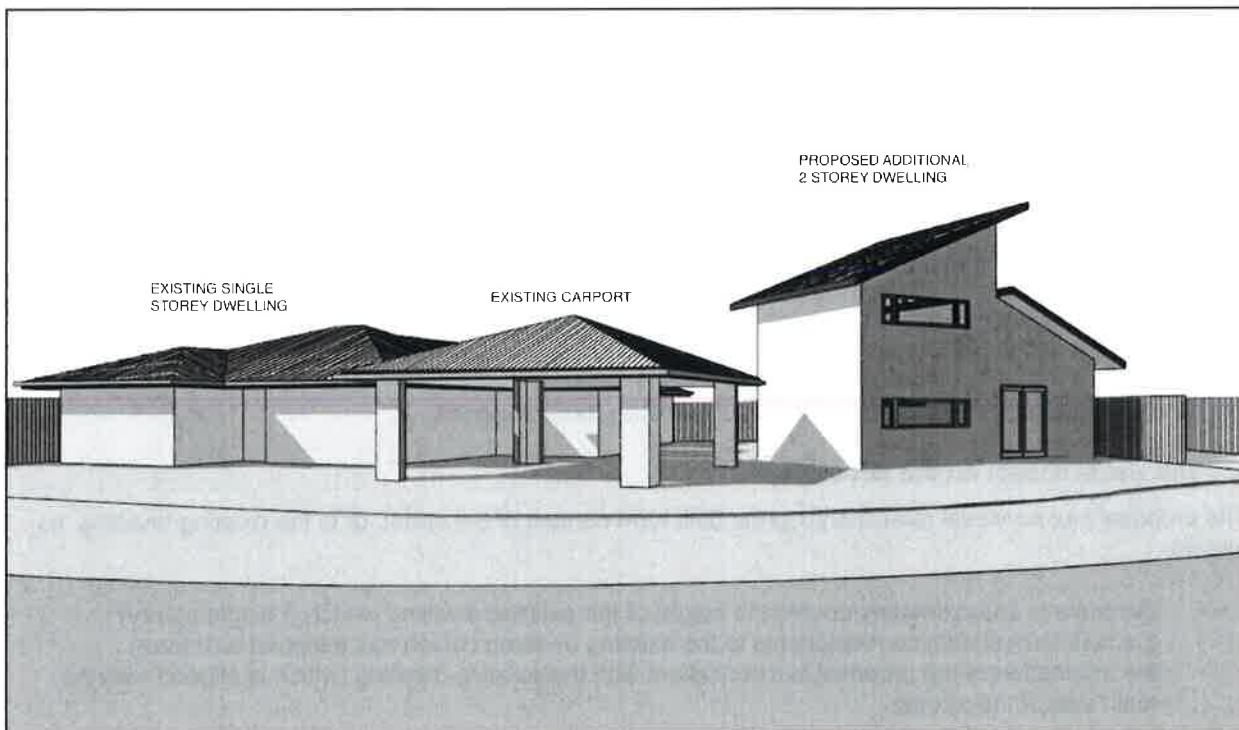


Figure 1 – The proposed built form – 3D perspective view showing dominant scale of new dwelling

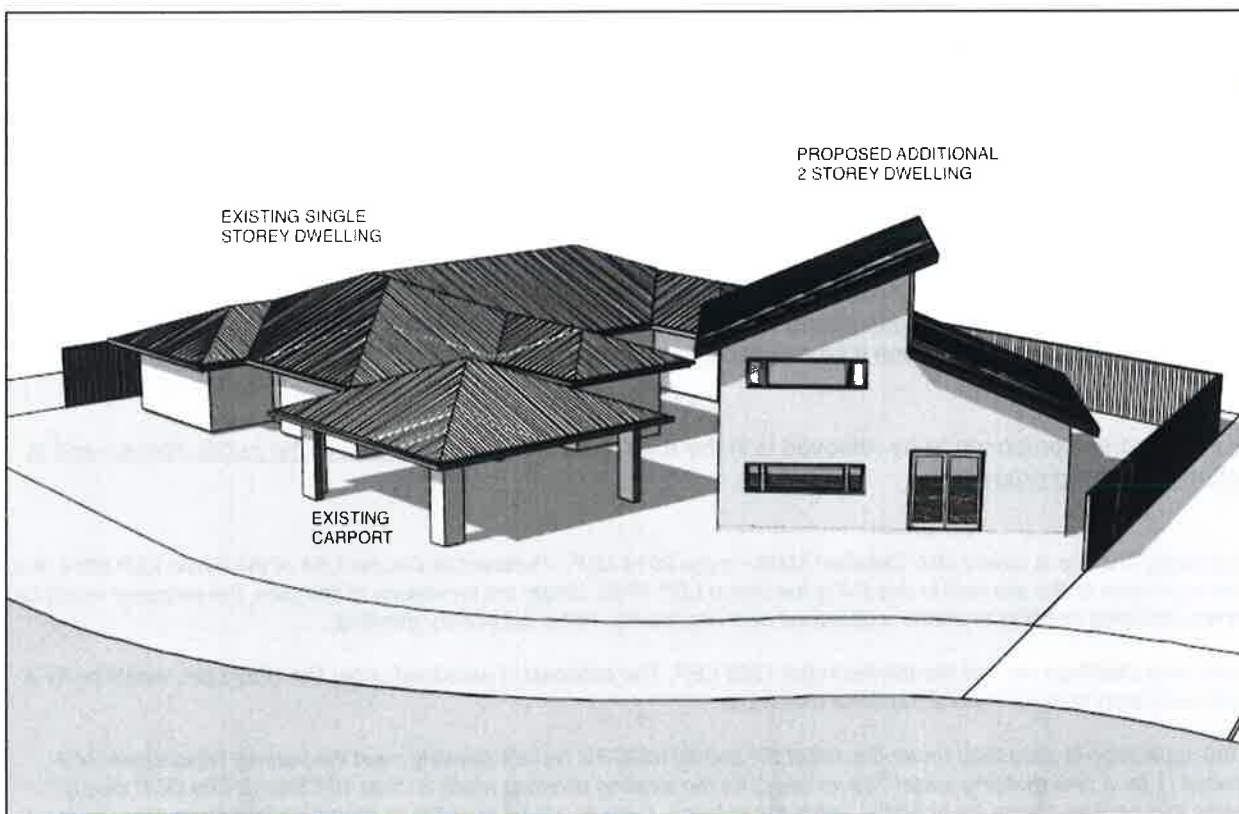


Figure 2 – The proposed built form – 3D perspective view showing dominant scale of new dwelling



Photograph 1 – Existing Fig Trees/ street view

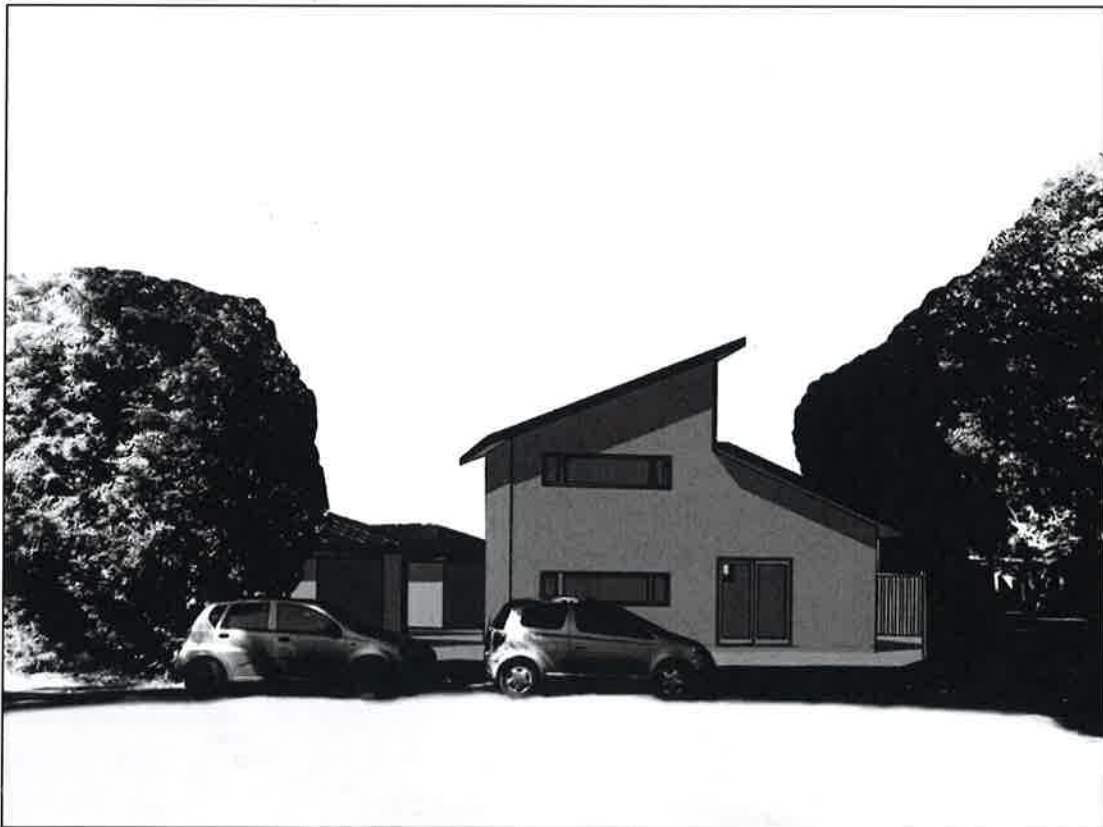
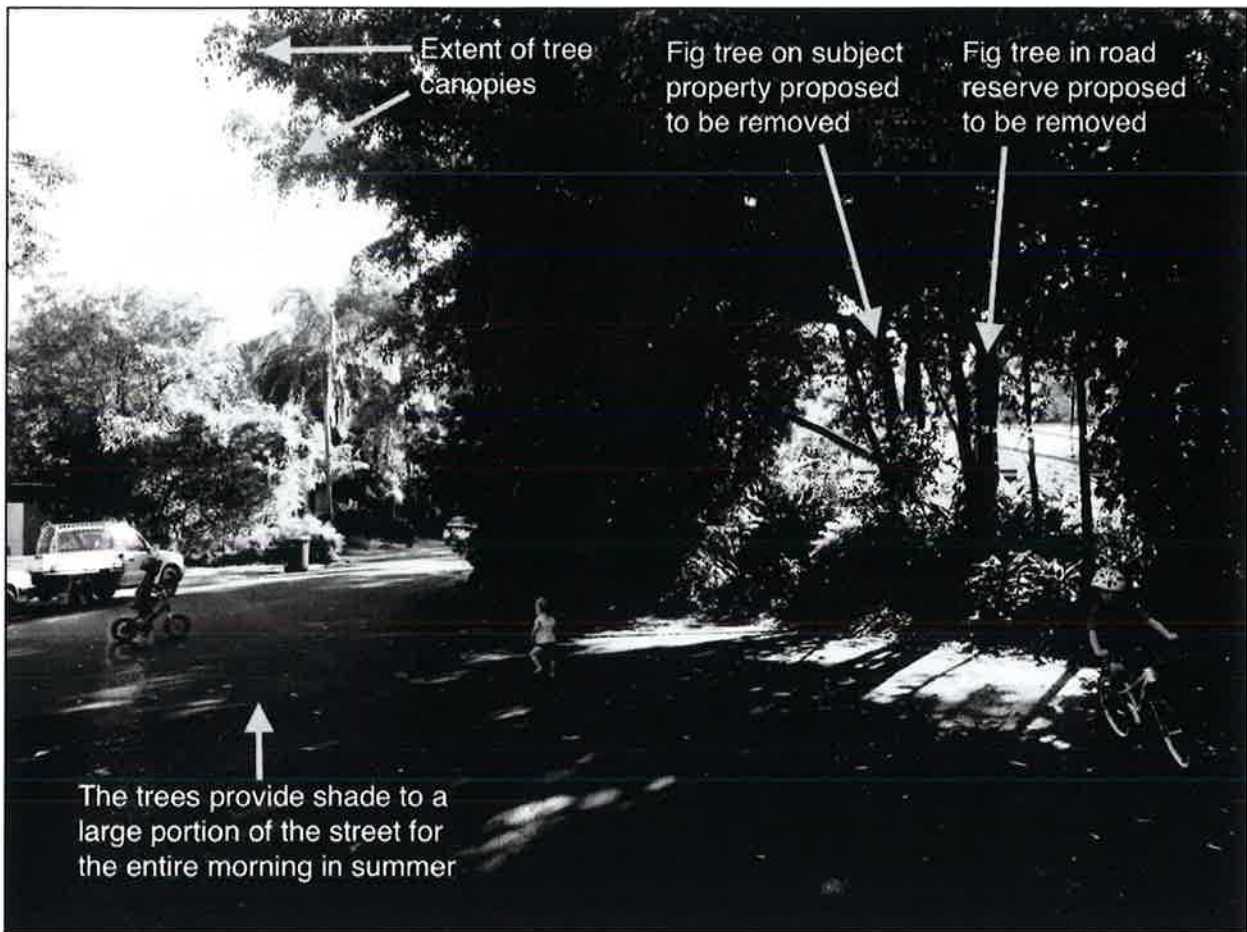


Figure 3 – Photomontage with trees removed



Photograph 2 – The current amenity (shade and public green space) provided by the 2 fig trees.

Response to proposed tree removal (as it relates to Council Controls):

The proposal suggests the removal of 2 mature Weeping Fig trees (*ficus benjamina*). One of these trees is not on the subject property. Both of these trees provide amenity for residents of the street in terms of shade and green space. They are also a habitat for birds and are an important component of a corridor for possums, and other small marsupials. The fig tree in the road reserve could easily be retained, or if removed, replacement planting (mature tree/s) plus lower height soft landscaping be re-instated within the front setback.

The applicant stated in the previous BASIX certificate (the relevant 'page 3' has been omitted from the current BASIX scan uploaded for public viewing on Council's website – with page 4 scanned twice) that they will plant indigenous or low water use plant species throughout 65 square metres of the site. It is not evident on the site plan, where this will occur at all, but it could be conditioned to be part of the front setback (It is highly unlikely the existing grassed rear yard will be planted with anything new).

Aside from being fundamentally inconsiderate of the amenity of people who live in the street, removing the fig trees (especially in the road reserve – ie not private land) is inconsistent with the LEP and DCP as follows:

Byron Local Environmental Plan 1988

Part 1 Clause 2

2 Aim, objectives and guiding principles

(2) Objectives

The objectives of this plan are:

- (c) to **protect biodiversity**, and re-establish and enhance essential ecological processes and life support systems.*

(3) **Guiding principles**

The objectives can be achieved through the implementation of the following guiding principles:

(a) *The precautionary principle. The precautionary principle means that where **there are threats of serious or irreversible damage to the community's ecological, social or economic systems**, a lack of complete scientific evidence should not be used as a reason for postponing measures to prevent environmental degradation. In some circumstances this will mean actions will need to be taken to prevent damage even when it is not certain that damage will occur.*

If these trees are removed, and no other large trees are planted in their place, there is no question that there will be irreversible damage to the community's ecological and social systems. People who live in Luan Court frequently talk on the street, under the shade of these trees – and numerous children rely on the trees for shade while playing/ riding bikes/ scooters at this end of the Cul-de-sac).

(b) *The principle of intergenerational equity. This principle means that the present generation must **ensure that the health, integrity, ecological diversity, and productivity of the environment is at least maintained or preferably enhanced** for the benefit of future generations.*

As per above, removing the trees will not enhance any of the qualities described in this principle, for future generations.

(c) *The principle of conserving biological diversity and ecological integrity. **This principle aims to protect, restore and conserve the native biological diversity and enhance or repair ecological processes and systems.***

The proposed removal of trees does not protect, restore and conserve any native biological diversity or repair processes and systems.

Byron Development Control Plan 2010 (as amended)

H11.5 Element – Existing Vegetation

Element Objective

To promote ecological sustainability and **to optimise aesthetic character by maximising retention of existing vegetation.**

Performance Criteria

Landscaping should retain, protect and enhance existing natural vegetation. The provisions of Council's adopted Tree Preservation Order apply.

Maximum advantage should be taken of existing mature trees and shrubs on the site(D) and these should be incorporated into the overall landscape strategy.

The retention of vegetation on a development site(D) adds an "established" effect and an immediate vertical dimension to the design. Existing vegetation also assists in the retention of the natural character of the Shire and has ecological benefits. In addition, existing vegetation on a site(D) may be significant for historical, aesthetic or environmental reasons and may be required to be retained by Council provisions.

Removing the 2 trees is in complete contradiction with this entire clause.

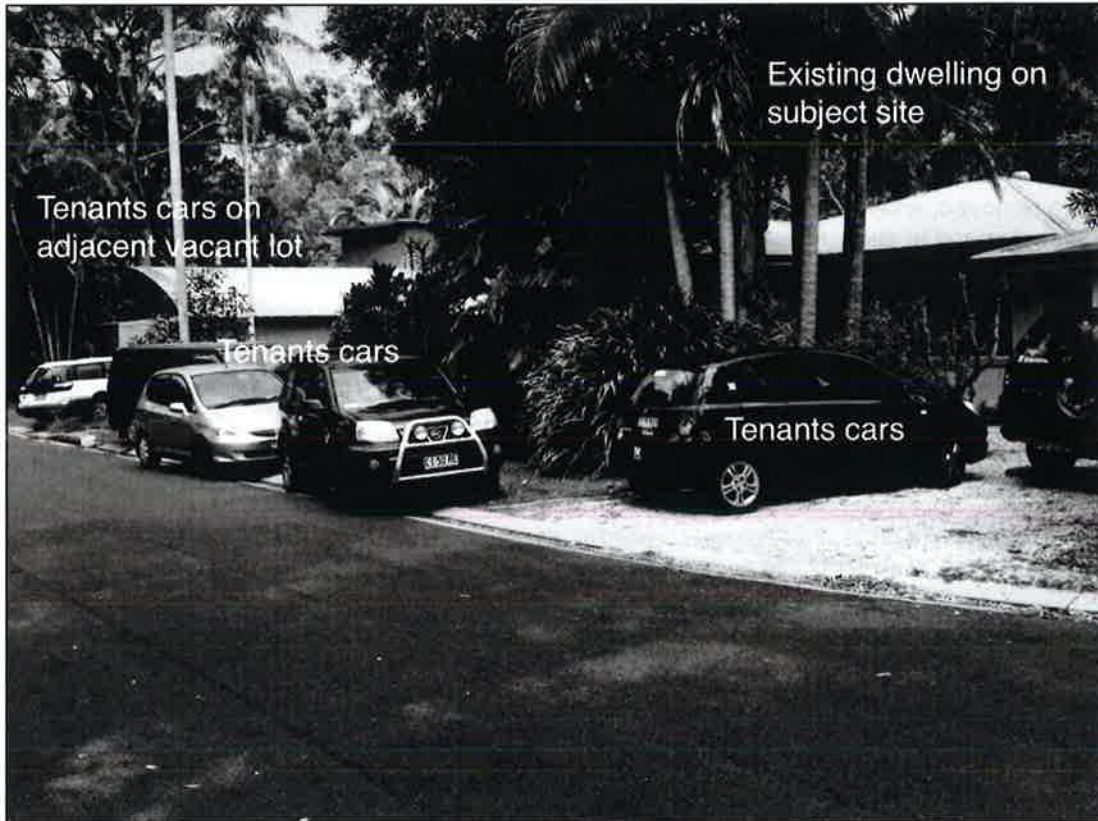
We understand the trees are non-endemic figs, but both these trees make a huge contribution to the streetscape. Root barrier systems and/or alternate siting of the secondary dwelling would allow the trees to be retained.

In the event that these measures can't be implemented and the trees are removed, it seems entirely reasonable for Council to condition the planting of at least one replacement tree in the road reserve to compensate for the fig that is proposed to be removed. The fig in the road reserve is part of the public domain.

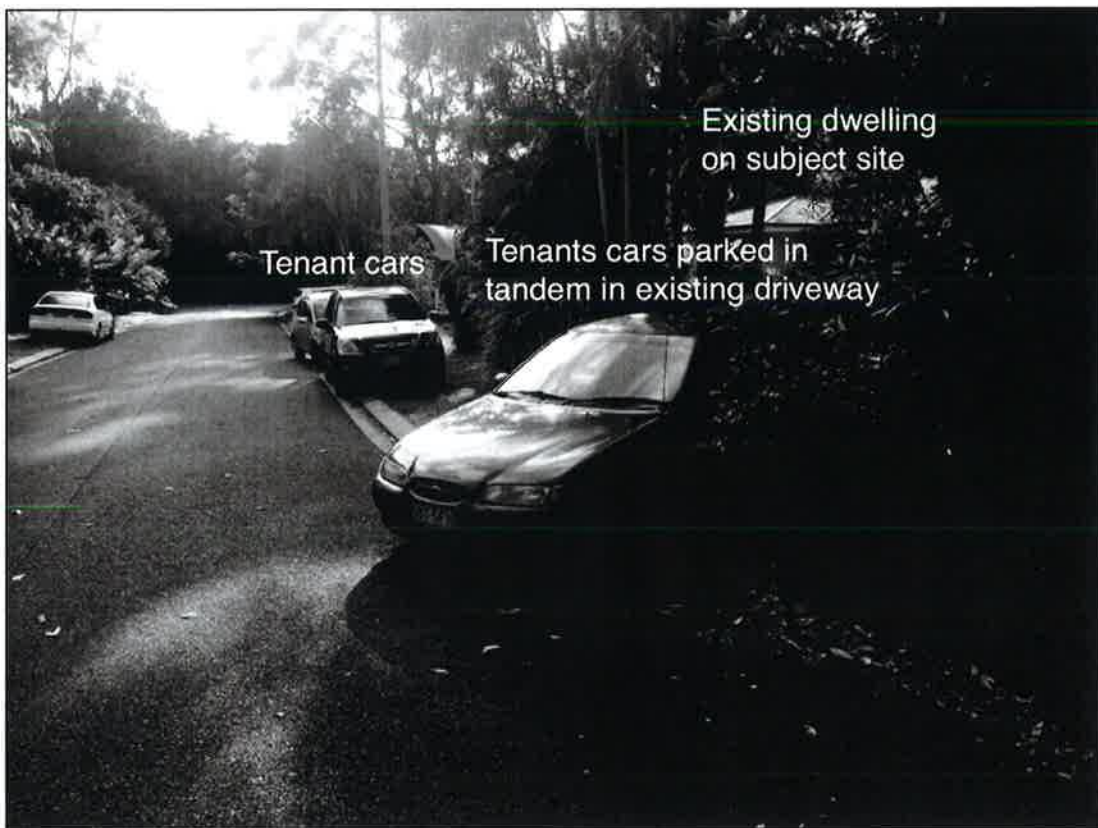
It would also be in accordance with the objectives of Part H11.5 to call for retention of soft landscaping (instead of an area that could end up being used for carparking as there is no kerb) within the street setback of the actual subject property **to optimise aesthetic character by maximising retention of existing vegetation.**

Comment re carparking:

While we understand there are no grounds in the SEPP (Affordable Rental Housing) 2009, for the refusal of a secondary dwelling due to lack of parking, we note that the current tenants of the existing dwelling have, on average 6 cars. These cars are often parked in tandem format out into the road, as well as on the road reserve and on the adjacent vacant property. The construction of another dwelling here will clearly increase demand for parking.



Photograph 3 – The current parking situation



Photograph 4 – The current parking situation on a different day

Conclusion re development as a whole:

We are not against development per se, but feel that it should a) respect the streetscape and amenity of people who live here, and b) be in compliance with the objectives and guiding principles of the Byron LEP 1988 and the provisions of the Byron DCP 2010. The proposed development does not achieve these things in its current form.

The proposed development would be a highly dominant built form in the streetscape and could easily have less of an impact on the streetscape with the retention of the existing fig trees.

Should the figs be removed, a replacement tree/ trees in the road reserve and the retention of/ planting of soft landscaping, would go some way to the retention of the (reduced) neighbour amenity.

Your consideration of the above in the determination of the application would be greatly appreciated.

We are more than happy to meet and discuss these issues if required. Alternatively we are available by email on fin@architectfin.com

Fin Murray and Anna Murray
13 Luan Court
Byron Bay NSW 2481

From: Tim Shanasy <tshanasy@gmail.com>
Sent: Thursday, 2 August 2018 8:28 AM
To: council
Subject: Submission of objection of DA-10.2018.342.1

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

Re: DA-10.2018.342.1

Proposed new secondary dwelling at 5 Luan Court Byron Bay NSW 2481.

Dear General Manager,

I strongly object to the removal of trees on this DA.

As a neighbour within the Lilli Pilli nature estate since 1996, I have always found the treescape at the western end of Luan Court in particular, to be of crowning value and importance to the natural architectural livability of this area, both immediately, and to the general feel of this area.

For the tree within the private property of 5 Luan Court to be removed, would be a regrettable violation to this area's feel and attraction, but to remove its significant partner tree on the public nature reserve, would most definitely destroy this crowning aspect which has always been the single most effective contributor to human connection to this street-scape since its development in the early 1990's.

All locals and visitors alike are warmly welcomed by the ambiance and homeliness of this stand of trees, and would conversely be detrimentally affected by any removal of these trees, creating an unprecedented barrenness which would be felt for decades.

Solar panels can be placed wherever the Sun shines, and don't necessarily need to be on a roof structure. It appears to me, these panels could easily be mounted on existing roofs within this already developed block.

I implore the DA review panel to urgently save this public tree at least, from being removed.

Thank you for acting on best outcomes for the residents of this shire.

Yours faithfully,

Tim Shanasy
19 Blueberry Court
Byron Bay NSW 2481



DA Submissions Report - Advertising LV2

Close Date from 28/07/2018 to 3/08/2018

DA Number: 10.2018.342.1
Submission Method: ESERVICES

Include Applicant: Yes
Include Parcels: Yes

DA / Submission Type / Number	Date	DA Description / Categories
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10.2018.342.1

Secondary Dwelling

Parcel LOT / DP

Property Address

211740 LOT: 56 DP: 863772

5 Luan CRT BYRON BAY

OPPOSE

30.2018.12463.1 01/08/2018 **Categories: DA OPPOSE**

Submission Method: ESERVICES

Submission by: Ms A Villeseche

To whom it may concern Re: DA-10.2018.342.1 Proposed newsecondary dwelling at 5 Luan Court Byron Bay NSW 2481. As residents of 11 Luan Court Byron Bay, and therefore immediate neighbours of the above mentioned property, we write to object to the development proposed in DA 10.2018.342.1, and particularly the removal of the tree on Council reserve. The DA seeks to build an elevated dwelling that will clash with the current streetscape and remove the existing green frontage of the property provided by two large trees. The State of Environmental Effect (SEE) advises that 'there are 2 large trees to the NW that will block a lot of solar access and therefore it is requested that these be removed. One however is on Council Reserve'. Whilst we regret that the owners should want to remove a large established tree on their property, we are outraged that they should request to remove a large tree on Council reserve and strongly object to it. If the main reason to remove those trees is, as stated, to allow greater solar exposure, then we suggest that the new building be set further back on the property, instead of being as close as possible to the street. There is ample space for this. The SEE concludes that 'the proposed development does not impact on the existing natural or built environment adversely', which could not be further from the truth. In fact, such a conclusion could only be reached by someone who has not been to the site, does not intend to live there and/or has no consideration for the neighbourhood; it is certainly not the opinion of the local residents. As stated before, the proposed elevated dwelling would clash with the existing streetscape (please see the submission by local resident and architect Fin Murray for images). Should the trees be removed, particularly the one on Council reserve, there would be no buffer, visual, auditory, environmental or otherwise, between the new building and the rest of the street. This would greatly impact on the character of the street, and the nature reserve that Lilli Pilli prides itself to be. The trees considered for removal provide substantial morning shade for this cul de sac, and make it an inviting green public space, where children play and residents interact (see attached photos). Such public spaces are critical in creating a sense of community and helping residents engage with the neighbourhood. One would also imagine that they provide welcomed privacy for the tenants of 5 Luan Court. Importantly, these trees are hosts to numerous species of birds, insects, possums and more. They are adjacent to native trees and form a corridor along which the wildlife can move from tree to tree, nest, feed, cross pollinate, etc. This area is also a known habitat of the endangered Mitchells' Rainforest snail (see attached photo of snail found at 11 Luan Court). Loss of vegetation and habitat on private land in NSW is well documented. Let us not add to it by removing a tree on Council reserve that contributes to biodiversity, social and amenity value to our neighbourhood, because a private landowner is concerned about shade on their property. We note that the purpose of the new building is not explicit. Whilst the previous DA stated clearly that the building was not intended for holiday letting, this DA makes no such statement. We would strongly oppose the addition of a short term holiday letting residence on a property where noise issues associated with the current tenants have already been referred to the police and the rental agency. In addition to the issues expressed so far, we are also greatly concerned by the likely increased traffic and parking issues associated with additional residents on this property. We have observed that the tenants of the existing dwelling and their visitors have multiple cars, some parked on the street and others on an undeveloped block of land adjacent to the property. Luan court has limited street parking. The addition of a residential dwelling will increase the parking load to potentially seven or eight vehicles for a single residential property. There has been ugly development allowed to proceed at the end of Lilli Pilli Dve, as well as total tree clearing (including koala trees) at 3 Luan Court. If this proposed development goes ahead, 5 Luan Court will become a block of land with virtually two full size houses on it and very little in the way of other space. This style of high density housing development is very much out of keeping with this neighbourhood. We urge Council to a) resist requests from private developers to cut down public vegetation for personal gain and b) preserve the nature and character of one of Byron Bay's most authentic suburbs. Thanking you in anticipation, Yours sincerely Annie Villeseche and Steven Skov
11 Luan Court Byron Bay NSW 2481

10.2018.342.1

Secondary Dwelling

Parcel LOT / DP
211740 LOT: 56 DP: 863772

Property Address
5 Luan CRT BYRON BAY

30.2018.12495.1 01/08/2018 **Categories: DA OPPOSE**

Submission Method: ESERVICES

Submission by: Mr D Ivancevic

RE DA 10.2018.342.1 Secondary Dwelling Lot 56 DP 863772, 5 LuanCourt BYRON BAY. As the owner of 9 Luan Court, I object to theproposed DA on the basis that it removes too much Vegetation . TheFig trees proposed for removal, one on public land, are valuable ,not only in terms of amenity for the permanent residents, but alsoenvironmentally. The area under the trees is a gathering place forresidents of the Court for Christmas parties, Children play in theshade of the trees, they add beauty to this part of the street. FigTrees are a favoured habitat for the Critically EndangeredMitchell's Rainforest Snail , there is no doubt it would be foundin the undergrowth below these trees, as it is in the gardens ofsurrounding properties. The Conservation plan For Mitchell'sRainforest snail states even small areas are valuable, and worthpreserving. There is ample scope for a secondary dwelling on thisproperty without disturbing the natural environment. The Lilli PilliArea also has a small Koala population. One of the trees beside thewooden fence is a Swamp Mahogany - a primary Koala food tree, Koalashave been seen in it. The tree would be threatened as it falls withintwo metres of the boundary of the dwelling. The vegetation,including the two Fig trees are due west of the proposed dwelling.Removing these trees would add little solar benefit , as after 3 pmthe dwelling will be overshadowed by the 40 metre gums on propertiesacross the street anyway. The Fig trees do not affect the Proposeddwelling's northerly aspect. It would be kinder to the naturalenvironment and the amenity of the permanent residents , if the treeon private property was just lopped. It would be outrageous if theFig tree on public property was harmed in any way.

Total: 2 OPPOSE submissions for DA 10.2018.342.1

***** End of Submissions for DA 10.2018.342.1 *****