

2 June 2020



RE : DA 10.2020.215.1

Dear Sir/Madam,

I wish to make a submission concerning the above Development proposal.

My concerns are:

1. Development density and its impacts on drainage in the area
2. Stormwater management
3. Traffic impacts
4. Residential strategies

Development density.

The proposal seeks approval for a dense cluster of 10 homes, each with a swimming pool. One could say that it would be ideal for short term holiday letting.

The result is a large area of roof, road and other hard surfaces.

This is not the style of the surrounding development.

While there are other developments in the area with multi-dwellings, they do not have the intense site coverage sought here.

The site adjoins natural swampland. It and the existing development surrounding it will be subject to flooding impacts from storm events and tidal related effects in some circumstances.

Existing developments in the area could expect there to be increased flood risk given that this land will absorb very little of the rain that falls on it, rather exporting it into already saturated surroundings.

It is a falsehood to think that this is a good plan for development on this site. It is a way to create wealth, but it is not good for the area and the existing residents.

The area drain serves a large developed area including Mott, Keat Streets and Bangalow Rd. It now is expected to take all runoff from this site.

## Stormwater Management

Each property has a stormwater retention tank. These are sited below the buildings, underground. It is unclear from the DA how this is to operate, and what back-up systems might be relied upon in case of power outages.

The requirement that there not be significantly increased water leaving the site due to its development would not appear to apply.

The level of the land has been increased in the past 30-40 years. This must result in extra flooding pressure on the surrounding area, and elevated flooding in the swamp. When is enough more than enough? How can this be classed as a sustainable development?

## Traffic Impacts

Some traffic work has been done showing the proposal generating 90 movements per day. Any survey of existing parking availability in Keats Street will show that parking is already full.

In many cases properties can be expected to generate 2 and more vehicles, so the few visitor places will quickly be overwhelmed.

## Residential Impacts and Strategies

The proponent states that there will be minimal impact to the surrounding area. The fact that they propose a wall of 2 story residences which will overlook back yards of existing homes has not featured in their thinking.

The private open space is located on the boundary of neighbours to the north, and due to the small area available, will have a significant effect on neighbourhood amenity.

There is no mention of the Affordable Housing component.

In conclusion, this development does not offer sustainable development to its community and the surrounding natural areas.

It is an overdevelopment, and the scale of intensity is a very poor attempt.

Yours Sincerely,





## **Keats St D.A. (draft submission)**

1)

### **Hydrology issues**

The stormwater plan shows all surface water and stormwater is directed to the existing drain/swale running west from Bangalow Rd. This drain runs adjacent to the Cumbebin Swamp and then under the railway line to the west. At this point the water run-off disperses into the Swamp.

This drain /swale was designed and constructed many years ago to take the stormwater run-off from just the catchment of Mott St and Bangalow Rd.

During the 80's the natural level of Lot 2 Keats St was raised by fill, a process that amongst other things created a "false" drain along the boundaries with properties in Keats St and Bangalow Rd to allow for stormwater and overland flows from these properties, that had previously flowed directly onto this land, to instead be directed to the drain/swale, thus increasing its catchment area. In addition, this process was flawed as this "false" drain constantly blocked up, restricted proper flows and required regular maintenance by the previous owner. Last year they applied to Council and installed a pipe and drain system to take this water to the Council drain. This DA was approved and signed off by Council, transferring the onus of maintenance to the new owners. As can be seen in the attached photos this pipe has been completely ineffective and has in fact exacerbated the problem.

I mention this as it is yet another stormwater flow that runs into this drain/swale. This is a Council drain/swale whose size and capacity has been designed for road water run-off for Mott St and Bangalow Rd. It is now proposed that it will be of sufficient size and scale to handle ALL the water run-off from this development as well.



Figure 1 (left)  
Looking south  
from Bangalow  
Rd boundary  
16th May 50mm  
rainfall

Figure 2 (right)  
Looking south  
west from  
Bangalow Rd  
Boundary 16th  
May 50mm  
rainfall



The DA states as  
follows:  
"In frequent events  
flows from the site  
external catchment



will be contained at Keats Road. In major events the flows will run through the site internal road to the swamp area located to the south of the site. The development will not impede or alter the local stormwater flow condition and will not create a downstream adverse impact."

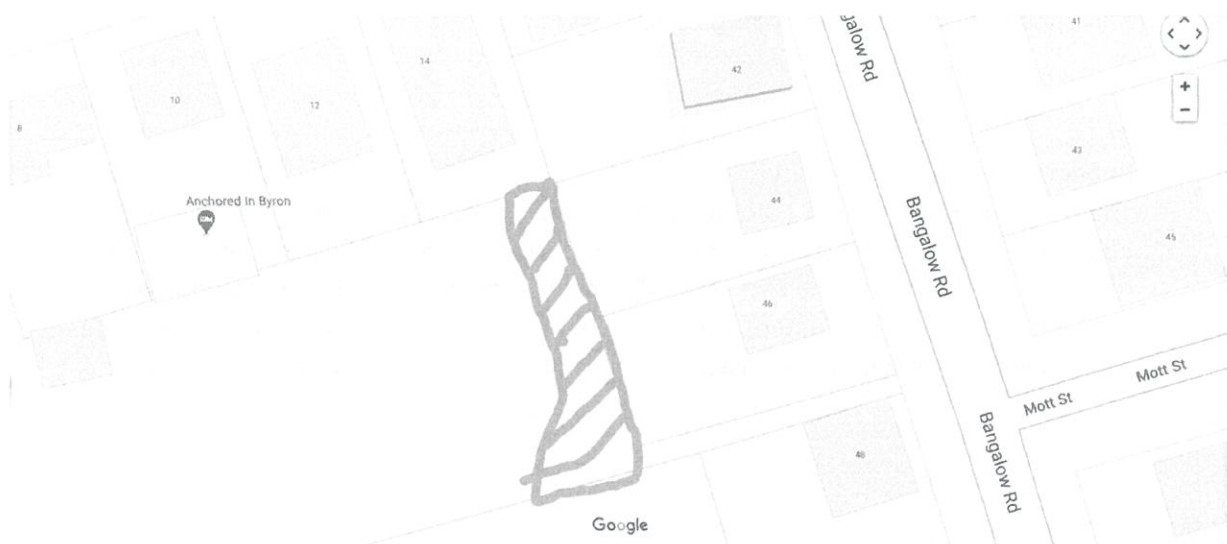
How is this statement substantiated? The downstream impacts are unknown; but are likely to be substantial. The drain/swale is of inconsistent size and condition, and the Swamp itself has surely a finite ability to absorb additional run-off, or to absorb it arriving much more rapidly than ever was the case in the past. At what point does Council believe the saturation point has been reached and how will they know?

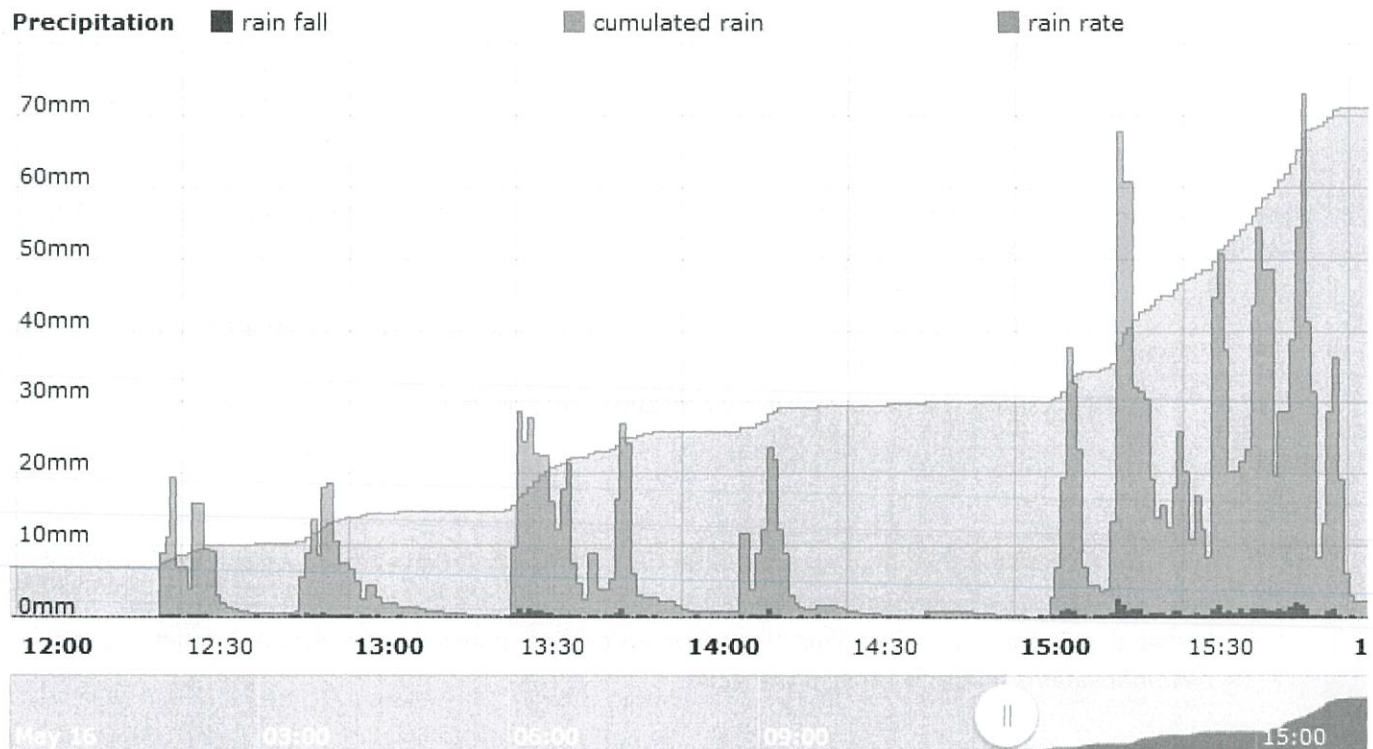
This is surely a time to invoke the precautionary principle.

**The precautionary principle** (or **precautionary approach**) is a broad epistemological, philosophical and legal approach to innovations with potential for causing harm when extensive scientific knowledge on the matter is lacking. It emphasizes caution, pausing and review before leaping into new innovations that may prove disastrous"

In the absence of conclusive data, the likely result is for increased flooding both on Lot 2 itself, and on the properties on either side of the drain/swale, plus adverse environmental impacts in Cumbebin Swamp despite the letter of the law on peak discharges at the property boundary being satisfied (if it is)."

Figure 3 (left) Looking north from Bangalow Rd Boundary 16th May 50mm rainfall





This graph above represents the rainfall event on Saturday 16<sup>th</sup> May, showing rainfall rates leading in the hour before these photos at 100-150mm/hour

2)

### **Detention Tanks**

It should be stated from the start that the Plan indicates that installation of underground detention tanks will be beneath nine carports and one garage; the DRAINS data, however, is for above ground tanks. There is no mention in the Plans for ten pumps, and therefore there are no flow figures to show what rate the pumps would operate, let alone whose responsibility maintenance would be.

It is therefore impossible to correctly evaluate the DRAINS modelling. However, regardless of this oversight, and based on the detention tanks being above ground, there is insufficient information to complete our check of the DRAINS modelling. The report at Appendix F falls short in describing its method. In particular it fails (i) to list all parameters used in the DRAINS modelling and (ii) to describe how it transfers detention details like orifice diameter from the modelled single storage to the ten separate storages actually proposed.

Essentially, by what methodology does the hydraulic performance of above ground tank modelled in Appendix F translate to underground tanks?

3)

### **Impact on residential amenity.**

This development is for ten 2-storey houses, there currently is only one 2-storey building adjacent to this site. The scale and bulk of this development will dwarf and overlook all other residences on the North and East sides. The location of all the Living and outdoor/pool areas on the Northern side guarantees maximum visual and noise interference to these residents. These buildings, despite the set-back, will be looking directly into their gardens and



windows. The privacy of these residents will be permanently destroyed and house values with it.

The DA states:

*"Visually prominent land: The subject land is not considered to be visually prominent in the local streetscape due to the surrounding development and vegetation. The location of the dwellings as an infill development at the rear of existing properties with no visible street frontage will ensure the development is not visible from any places of significance or within any view corridors."*

They seem to have ignored the "places of significance" that are the homes of residents of the south side of Keats St as well as those of Bangalow Rd.

There is also still no regulation in place regarding Short Term Holiday Letting. In the absence of any guidelines it would be reasonable to assume that all or many of these buildings will find their way onto the STHL market and with the attendant revolving door of domestic/international tenants, the loss of amenity for these same local residents will be immense.

The DA notes the existence and type of perimeter fencing bordering the site. We currently have by choice minimal fencing; however, a 3-metre set back to a two-storey building will destroy any natural views to the west. We would therefore ask, should this development be approved, that the developer installs a 1.8m timber paling fence as a minimum, as well as increased natural vegetation in the buffer zone to assist with screening.

During early stages of the purchase of this property we entered into an agreement with the developer concerning the overhanging trees from our property. We submitted a Tree Removal DA to ensure that three trees (a Jacaranda, and two Cadagi's) would have overhanging limbs pruned back "to or near" the boundary line, and that the mango tree be pruned "in a balanced manner in conjunction with an arborist". All this was agreed by both parties and to be at the expense of the developer.

4)

**Need.**

There is no need for this DA.

Byron Shire is well on track to meet the State's residential housing strategy, and Byron Bay is ahead of requirements.

A large block of undeveloped land sits empty for several decades until it is deemed to be worth \$3 million based on its "market potential"; resulting in a developer who then needs to ramp up the density to cover this excessive outlay plus a profit.

Where is the affordable housing component in this DA? Council's 2104 LEP Clause 6.7 states:

*"(2) Development consent must not be granted for the purposes of residential accommodation or to the subdivision of any land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone B2 Local Centre or Zone B4 Mixed Use unless the consent authority has considered—*

*(a) the need for providing, maintaining or retaining affordable housing, and*

*(b) the need for imposing conditions relating to providing, maintaining or retaining affordable housing including, but not limited to, imposing covenants and the registration of restrictions about users.*

*(3) For the purposes of this clause, affordable housing means housing for very low-income households, low income households or moderate-income households. “*

There is no consideration for the provision of affordable housing in this development. Countries all over the world are mandating all new developments include a percentage of affordable housing. If there is a need in Byron Bay for any additional housing it is for affordable housing not in \$1.2-\$1.5M townhouses. There is no need for this development; but surely, though we cannot legislate against greed, we can adhere to Council's LEP.

5)

#### **Traffic**

Ten buildings according to the developer's figures will produce and additional 90 vehicle movements to Keats St and Bangalow Rd. Keats St currently suffers from cars parked on both sides all day, these additional vehicle movements will just exacerbate the problem. NO 7 Keats St is an approved development under construction for five dwellings, this will generate when completed a further 50 vehicle movements to add to these congestion issues.

The Council owned drain/swale will require periodic maintenance, there will need to be an easement along the southern boundary capable of handling heavy dredging equipment. Also, for the last 25 years the previous owner has been the trigger point to alert Council when maintenance is needed. Given these will be Strata Titled properties, what system of maintenance scheduling does Council propose will ensure this drain is kept in functioning condition?

6)

#### **Environmental Issues**

The Cumbebin Swamp is home to an enormous range of fauna, including wallabies, koalas, echidnas and pythons. Every encroachment on land adjacent to the Swamp places greater pressure on the fauna and increases the risk of injury and death.

#### **Conclusion.**

This development is oversize and overscale for this location., it will adversely impact on the amenity of all residents adjacent to it.

We would recommend a reduction in the number of dwellings from 10 to 8 by reducing Stage 1 from six to four dwellings and therefore increasing the spacing and set-backs from 3.0m to approx. 6.0m which itself would limit the direct impact to "one new dwelling for each existing dwelling" along Keats St. The reduced building load would lessen the stormwater impacts through the slow release tanks and provide increased pervious areas to minimise pressure on the drain/swale.



Alternatively, the same reduced number could be re-oriented through 90 degrees, so the longer axis was parallel to Keats St and then set back 6.0m from the Keats St boundary. This would have the advantage of again providing a greater buffer and improved privacy between each building and the existing Keats St properties. This would equally lessen the rainfall surge volumes to the drain, whilst also providing greater pervious areas for rainfall absorption and minimise resultant flooding.

This DA may satisfy Council's regulatory requirements; but that does not necessarily make it a good development that is in the best interests of the existing residents and ratepayers.

Please use the precautionary principle here, reject this DA as it exists or at the very least scale it back.

*(In addition, we would like to be kept informed of any variations made to this DA during its progress through Council.)*

**From:** [REDACTED]  
**To:** [submissions](#)  
**Cc:** [REDACTED]  
**Subject:** DA No.10.2020.215.1/Lot:2 DP:1257709  
**Date:** Wednesday, 20 May 2020 3:19:51 PM  
**Attachments:** [#6 Keats St DA. Keats St Border160520.jpg](#)  
[sm#6 Keats St.DA Bangalow Rd Border160520 .jpg](#)  
[Sm 6 DA.Council Drain 12 Keats St. front.jpg](#)

---

[REDACTED]  
Byron Bay

2481

May 20, 2020

Our property, [REDACTED] Keats St borders on the proposed development, DA No. 10.2020.215.1 at # 6 Keats St. The following are our objections to this proposal:

1. All 6 houses have entertaining areas and pools that back on to neighbouring properties. This will impose extreme noise and disruption to the enjoyment of neighbours. Our property will have 3 (one full pool area and two partial pool areas on either side), of the proposed 6 backyard recreational areas along the back fence. Any new homes should be inverted so that these areas face the adjoining bush buffer where the noise impact will be less to existing neighbours.
2. The obsolete Council drains on Keats St. no longer capture the storm water caused by regular sub-tropical storms since new drainage has been installed on the proposed building site last year. The immense runoff collects in the swamp area of the proposed development site which I understand has been filled over the years without council permission, saturating our backyard further as happened in February of this year. After the moderate rain storm in February, 2020, our home had water ingress for the first time in 15 years since this new drainage on the development site was built. Since instillation of these new drains on the proposed site, water is now causing large lakes after average/moderate rainfall causing saturation to neighbouring backyards. Enormous drainage changes will have to be designed and built before the construction of any housing and pools.
3. Right now, traffic in Keats St cannot cope with the existing number of cars using it. This will be increasing significantly with the six new homes presently being built at #7 Keats St. Another ten four bedroom homes at this new DA, #6 Keats St. will add significant road traffic along what should be a quiet suburban street. There are no sidewalks and many homes along Keats St. have families with young children or grandchildren precariously navigating the present traffic. More cars along Keats St. without new infrastructure will be dangerous to this cohort.
4. Native animals use this area for foraging. I have photographs of swamp wallabies, echidnas, numerous reptiles and birds all using this space as an extension of the nearby swamp. I have heard koalas calling out from the swamp perimeter during breeding season. The stress of any development in this area will put these unique animals at risk.



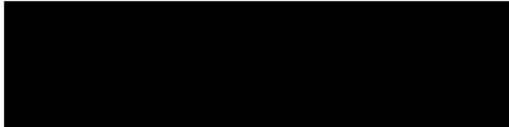
Ten large two story four bedroom homes all with swimming pools and hardly any yard is not the type of environment Byron Council should be aspiring to for our area.

I implore you to stop this poorly planned overdevelopment and only consider a modest development project with much less impact. The sense of community and the good mental health of existing residents' families as well as the health of native Australian animals will suffer dramatically if this proposed housing estate does go ahead.

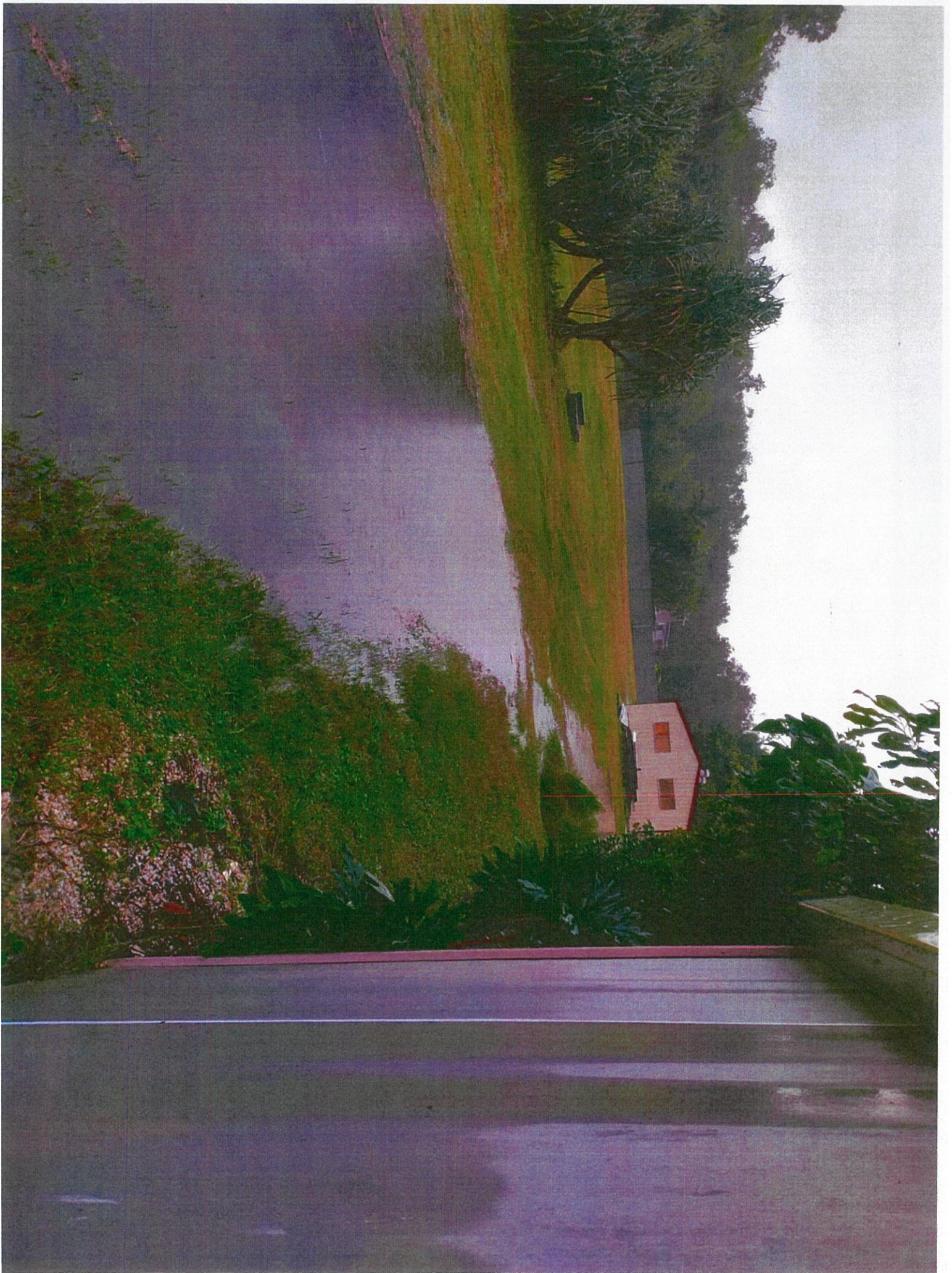
In my opinion, this development should not be built at all.

\*\*Attached are three photos taken 16/05/20 showing flooding in proposed development site on Bangalow Rd side and Keats St side and Byron Council over flowing drain at front of 12 Keats St. due to possible back-flow from newly installed drains at #6 after moderate rainfall.

Sincerely,

A black rectangular redaction box covering the signature.A large black rectangular redaction box covering the address.















From: [REDACTED]  
To: [submissions](#)  
Cc: [bor1@internode.on.net](mailto:bor1@internode.on.net)  
Subject: DA No. 10.2020.215.1/Lot:2 DP:1257709 / ADDENDUM  
Date: Thursday, 28 May 2020 3:02:39 PM

---

[REDACTED]  
Byron Bay

2481

May 28, 2020

As an addendum to our objection on the proposed development, DA No. 10.2020.215.1 at # 6 Keats St. emailed to Byron Shire Council, May 20, 2020:

All 6 houses in Stage Two of the proposal have entertaining areas and pools that back on to neighbouring properties. This will impose extreme noise and disruption to the enjoyment of neighbours. **Our property will have 3 frontages** (one full pool area and two partial pool areas on either side), of the proposed 6 backyard recreational areas along our back boundary.

I request that

1. The number and size of these houses be decreased **due to**

**A. lack of privacy and B. noise.**

2. Any home built should be set further back from the Keats Street bordering properties allowing major greenery of sufficient height be planted in this area by the developers as a buffer **due to**

**A. lack of privacy and B. noise.**

3. That a dividing fence be erected between the proposed development and the rear of #12 Keats St. The type of fence to be agreed upon between us and the developer. We would request from Byron Shire Council that this be a higher height than 1.8m normally used in the Shire affording a higher level of privacy **due to**

**A. lack of privacy and B. noise.**

4. That the fence be erected before land preparation and building to **ensure privacy** from builders during construction and to help **alleviate noise and dirt**.

We ask that we be kept informed by council of any proposed community committee meetings and/or executive council meeting concerning this development.

Sincerely,

[REDACTED]

[REDACTED]





**From:** [Holland, Ivan](#)  
**To:** [submissions](#)  
**Subject:** FW: Planning objection  
**Date:** Wednesday, 3 June 2020 1:26:32 PM

---

Ivan Holland  
Byron Shire Council | P: 02 6626 7265 |

---

**From:** [REDACTED]  
**Sent:** Wednesday, 3 June 2020 1:24 PM  
**To:** Holland, Ivan <iholland@byron.nsw.gov.au>  
**Subject:** Planning objection

Dear Mr. Holland,

**RE: DA 10.2020.215.1 - PROPOSED 10 DETACHED DWELLINGS AND SWIMMING POOLS AT 6 KEATS ST BYRON BAY - PARCEL NUMBER 269978**

We hereby object to this application for the following reasons:

1. There has been no community consultation, as required.
2. There has been no traffic impact assessment, as required.
3. The existing roadway on Keats Street is inadequate for the purpose and does not meet required dimensions.

Considering the above areas of non-compliance, we assume you will not allow the application to be approved.

Yours sincerely,

[REDACTED]

The proposed development [DA No.10.2020.215.1 / Lot: 2 DP 1257709 for 6 Keats Street, Byron Bay, NSW, 2481] is contrary to the following aspects of the Development Control Plan 2014

### A.3 Objectives

6. Provide for public participation in the development application and determination process.

The proposal is classified as a 'community significant development' and has failed to comply with the following 'Minimum Documentation Required upon lodging the development Application' under section A13.4.2.

No community consultation was undertaken prior to lodgement.

No community submissions could be provided and therefore addressed by the applicant.

If there are significant changes required, further community consultation SHOULD be required under the 'minimal requirements provision'

13.4.3. No Pre-lodgement community consultation was undertaken

### B4.2 Development Controls

#### B4.2.1 Traffic Impact

While the applicant has identified that the proposed development will generate 90 daily vehicle movements per day, the proposal is essentially doubling the number of dwellings on Keats Street. Currently, Keats Street operates as a single lane carriageway due to on street car parking by residents and visitors. The extra addition of 90 daily vehicle trips will have a significant impact on the function, safety, vehicle manoeuvrability, refuse collection and ingress and egress onto Bangalow Road. Further traffic assessment needs to be undertaken to determine if the road has capacity to operate safely and effectively.

#### C2.3.3 Flood Planning Matrix

The proposal has failed to demonstrate compliance with the primary constraints in the flood planning matrix. In particular table C.2.1 Flood Effects.

Not only is the site mapped as flood affected, overland flows from Keats Street as well as from the adjoining properties also impact on the proposed site. This additional runoff has not been allowed for in the existing calculations and downstream impacts on properties from the site.



## 6.2.1 Subdivision Guidelines – Prescribed Measures

1b

(iii) The proposal fails to take into account the existing road network, particularly on Keats Street which is already operating at capacity. The proposal is effectively doubling the amount of usage on an already strained infrastructure.

(vi) The proposal is not of a scale that is consistent with the built design within the vicinity.

### 3 Flooding

The proposal fails to take into account the volume of water from Keats Street and the surrounding residents into the site, in addition to all the new impervious surfaces internally. As a result, the applicant has failed to demonstrate whether the proposal has a non-worsening impact downstream.

## 10. Stormwater Management

b. The proposal fails to demonstrate to all impervious surfaces can be directed adequately into a lawful point of discharge. In addition, inadequate detail has been provided to the contours of the swale on the southern boundary to demonstrate to the drainage of all impervious surfaces can be contained in this area to a lawful point of discharge, not just into the surrounding land.

d. The proposal tank system to capture stormwater is inadequate and is referred to as 'indicative' location and represents an unacceptable outcome for roof water from the proposed subdivision.

The proposal also fails to take into account stormwater entering the site from surrounding properties and Keats Street and its subsequent impacts downstream.

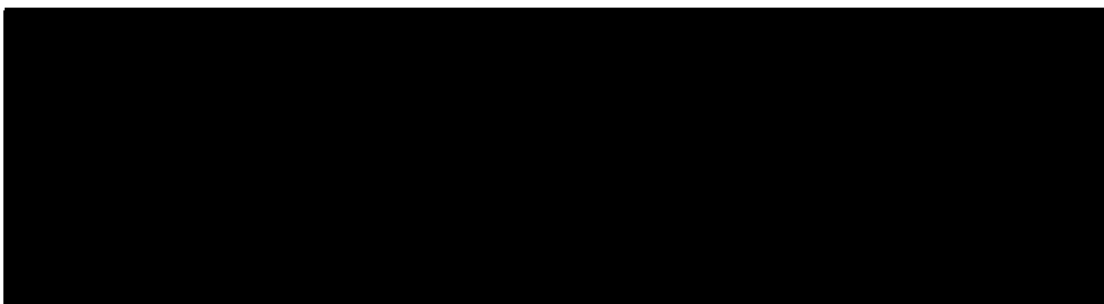
## 15. Strata Title, Community Title and Stratum Subdivision

The subject lot is located within the R2 zoning within the DCP 2014 and the minimum lot size is 800m<sup>2</sup>. The proposed development is inconsistent with the scale of the surrounding uses in terms of height, density and development footprint.

### Chapter D1 – Residential Accommodation in Urban, Village and Special Purpose Zones

The proposed height, density and scale of the proposal is inconsistent with the surrounding uses.

They will also impact on the privacy of the surrounding, particularly those on Keats Street as these lots are already elevated from the proposed development.



General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby 2482

Dear Sir/Madam

**Re: DA 10.2020.215.1 6 Keats St Byron Bay**

As a resident of Byron Shire for 17 years, I request that Council refuse this Development Application in its current form on the grounds of –

**Hydrology issues** – the current drainage of this and adjacent areas is already inadequate and causes the area to flood regularly. This development will increase the runoff and exacerbate the existing issues.

**Inappropriate size and scale** – this tourist accommodation development is of a scale inappropriate for what is currently a residential street, and will have an unacceptable impact on the surrounding residents.

**Traffic** – Keats Street already has traffic and parking issues which this development will only contribute to.

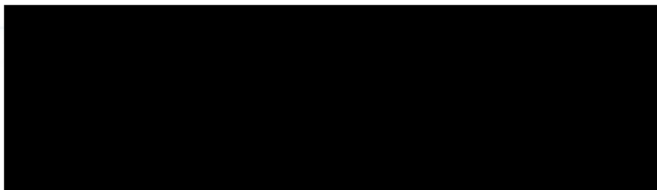
**Environmental impacts** – the size of the development and its proximity to Cumbebin Swamp will inevitably have adverse effects on the Nature Reserve.

The size and scale of this development has unacceptable potential to adversely impact on the environment, and the character and amenity of this small residential street, and the quality of life of its residents. As a long term



resident of Byron Bay, I implore Council to require developers to plan and build at a scale that is in keeping with the character of the town, its residential areas and that preserve the environment and quality of life of the residents. I therefore request that Council refuse this Development Application.

Yours sincerely

A large black rectangular box redacting the signature of the sender.

BYRON BAY NSW 2481

3 June 2020

**From:** [REDACTED]  
**To:** [council/ submissions](#)  
**Subject:** Development Application Submission  
**Date:** Tuesday, 19 May 2020 3:40:04 PM

---

Re: DA No. 10.2020.215.1  
6 Keats Street, Byron Bay

My name is [REDACTED] and I live at [REDACTED] Keat Street, Byron Bay.

I would like to register my opposition to the development application lodged for the property, 6 Keats Street, Byron Bay. This opposition is based on the following grounds. A large portion of the property, in particular, the area in which dwellings 5 through to 10 are positioned is not suitable for development.

A large portion of the property was originally low lying wetlands, which has been illegally filled and built up over the last 20 to 25 years. The previous owner, Ken Kerrigan, illegally dumped unsuitable and illegal fill from his earthmoving business over this time to fill the swamp area and build up the property. This was carried out by dumping small amounts of unsuitable fill over a long period of time. The section of the property, which dwellings 5 to 10 are situated on, was originally low lying swamp on this property has been filled at least one metre above the natural ground.

This property was built up without permission.

The fill was illegally dumped over the last 20 to 25 years.

The dumping was not approved.

The fill that was dumped was also not approved or suitable.

The property was not built up in an approved manner that would meet any building codes.

We personally witnessed this illegal dumping of fill over this period of time.

Other long term neighbours would have also witnessed this illegal activity.

Not only has he illegally filled this property from its natural level, it has been filled to a height that is now above the adjoining properties. As a result, stormwater and runoff backs up onto these surrounding properties. This drainage and runoff is obviously not approved or to any kind of standard either.

There is no way that the low lying, swamp portion of this property that has been filled and built up could be suitable for any development.

In addition to this, he has also significantly changed, without permission, this low lying wetland that has always supported a significant amount of wildlife habitat.

This wetland corridor is home to a variety of wildlife that will be further displaced if the area that was illegally filled was approved for development.

My family has lived at [REDACTED] Keats Street, Byron Bay throughout this period and have personally witnessed this illegal activity.

If you require any further information I can be contacted on [REDACTED] or by email on [REDACTED]

Regards  
[REDACTED]



## Keats St D.A. 10.2020.215.1

### Introduction.

We live at ■■■ Bangalow Rd, Byron Bay. This property shares its western boundary with the applicant's property. The two-storey building associated with Lot 10 of the proposed development will be directly behind. We have lived at this address for almost 25 years. This development will have an enormous impact in our lives.

1)

### Hydrology issues

The stormwater plan shows all surface water and stormwater is directed to the existing drain/swale running west from Bangalow Rd. This drain runs adjacent to the Cumbebin Swamp and then under the railway line to the west. At this point the water run-off disperses into the Swamp.

This drain /swale was designed and constructed many years ago to take the stormwater run-off from just the catchment of Mott St and Bangalow Rd.

During the 80's the natural level of Lot 2 Keats St was raised by fill, a process that amongst other things created a "false" drain along the boundaries with properties in Keats St and Bangalow Rd to allow for stormwater and overland flows from these properties, that had previously flowed directly onto this land, to instead be directed to the drain/swale, thus increasing its catchment area. In addition, this process was flawed as this "false" drain constantly blocked up, restricted proper flows and required regular maintenance by the previous owner. Last year they applied to Council and installed a pipe and drain system to take this water to the Council drain. This DA was approved and signed off by Council, transferring the onus of maintenance to the new owners. As can be seen in the attached photos this pipe has been completely ineffective and has in fact exacerbated the problem.

I mention this as it is yet another stormwater flow that runs into this drain/swale. This is a Council drain/swale whose size and capacity has been designed for road water run-off for Mott St and Bangalow Rd. It is now proposed that it will be of sufficient size and scale to handle ALL the water run-off from this development as well.



*Figure 1 (left)  
Looking south  
from Bangalow  
Rd boundary  
16th May 50mm  
rainfall*

*Figure 2 (right)  
Looking south  
west from  
Bangalow Rd  
Boundary 16th  
May 50mm  
rainfall*



The DA states as follows:  
"In frequent events flows from the site external catchment



will be contained at Keats Road. In major events the flows will run through the site internal road to the swamp area located to the south of the site. The development will not impede or alter the local stormwater flow condition and will not create a downstream adverse impact."

How is this statement substantiated? The downstream impacts are unknown; but are likely to be substantial. The drain/swale is of inconsistent size and condition, and the Swamp itself has surely a finite ability to absorb additional run-off, or to absorb it arriving much more rapidly than ever was the case in the past. At what point does Council believe the saturation point has been reached and how will they know?

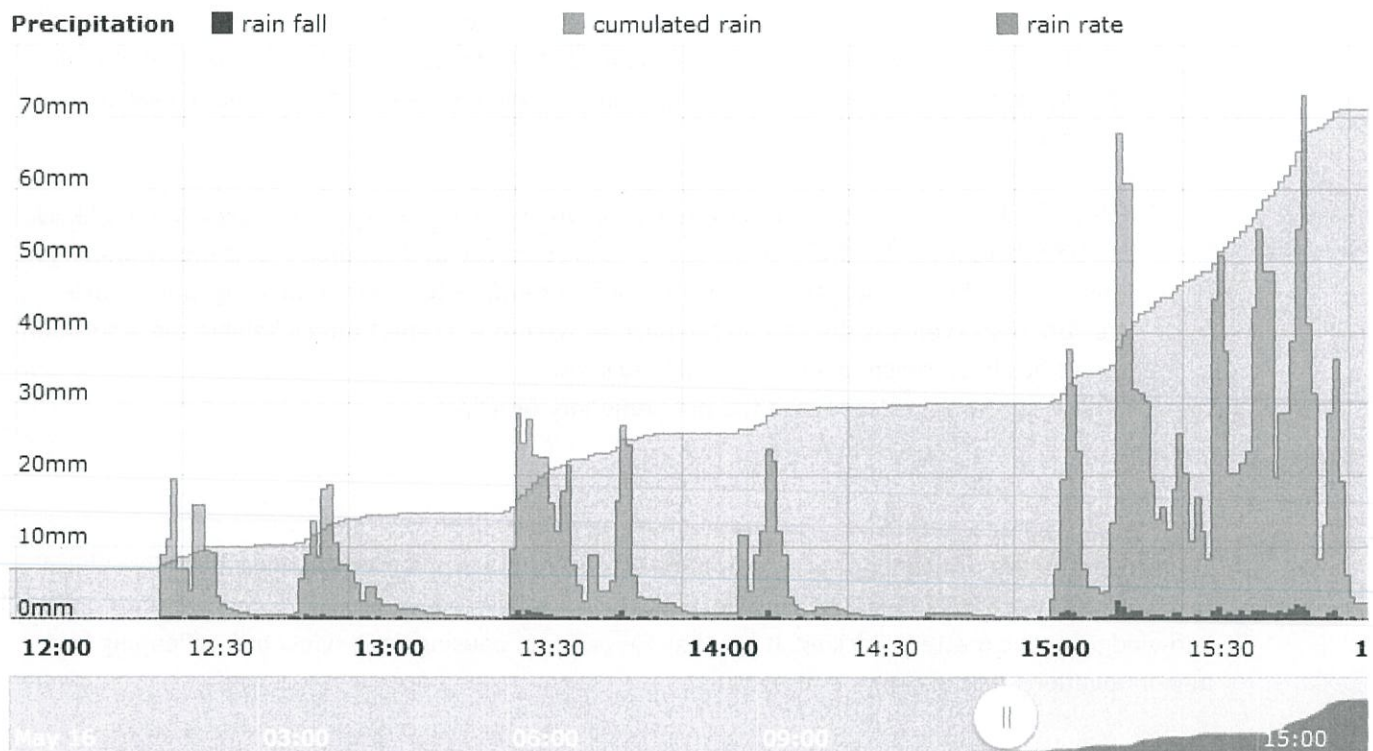
This is surely a time to invoke the precautionary principle.

**The precautionary principle** (or **precautionary approach**) is a broad epistemological, philosophical and legal approach to innovations with potential for causing harm when extensive scientific knowledge on the matter is lacking. It emphasizes caution, pausing and review before leaping into new innovations that may prove disastrous"

In the absence of conclusive data, the likely result is for increased flooding both on Lot 2 itself, and on the properties on either side of the drain/swale, plus adverse environmental impacts in Cumbebin Swamp despite the letter of the law on peak discharges at the property boundary being satisfied (if it is)."

Figure 3 (left) Looking north from Bangalow Rd Boundary 16th May 50mm rainfall





This graph above represents the rainfall event on Saturday 16<sup>th</sup> May, showing rainfall rates leading in the hour before these photos at 100-150mm/hour

2)

#### **Detention Tanks**

It should be stated from the start that the Plan indicates that installation of underground detention tanks will be beneath nine carports and one garage; the DRAINS data, however, appears to be for above ground tanks. There is no mention in the Plans for pumping equipment, and therefore there are no flow figures to show how the system would operate, let alone whose responsibility maintenance would be.

It is therefore impossible to correctly evaluate the DRAINS modelling. However, regardless of this oversight, and based on the detention tanks being above ground, there is insufficient information to complete our check of the DRAINS modelling. The report at Appendix F falls short in describing its method. In particular it fails (i) to list all parameters used in the DRAINS modelling and (ii) to describe how it transfers detention details like orifice diameter from the modelled single storage to the ten separate storages proposed.

Essentially, by what methodology does the hydraulic performance of above ground tank modelled in Appendix F translate to underground tanks?

3)

#### **Impact on residential amenity.**

This development is for ten 2-storey houses, there currently is only one 2-storey building adjacent to this site. The scale and bulk of this development will dwarf and overlook all other residences on the North and East sides. The location of all the Living and outdoor/pool areas on the Northern side guarantees maximum visual and noise interference to these residents. These buildings, despite the set-back, will be looking directly into their gardens and



windows. The privacy of these residents will be permanently destroyed and house values with it.

The DA states:

*"Visually prominent land: The subject land is not considered to be visually prominent in the local streetscape due to the surrounding development and vegetation. The location of the dwellings as an infill development at the rear of existing properties with no visible street frontage will ensure the development is not visible from any places of significance or within any view corridors."*

They seem to have ignored the "places of significance" that are the homes of residents of the south side of Keats St as well as those of Bangalow Rd.

There is also still no regulation in place regarding Short Term Holiday Letting. In the absence of any guidelines it would be reasonable to assume that all or many of these buildings will find their way onto the STHL market and with the attendant revolving door of domestic/international tenants, the loss of amenity for these same local residents will be immense.

The DA notes the existence and type of perimeter fencing bordering the site. We currently have by choice minimal fencing; however, a 3-metre set back to a two-storey building will destroy any natural views to the west. We would therefore ask, should this development be approved, that the developer installs a 1.8m timber paling fence as a minimum, as well as increased natural vegetation in the buffer zone to assist with screening.

During early stages of the purchase of this property we entered into an agreement with the developer concerning the overhanging trees from our property. We submitted a Tree Removal DA to ensure that three trees (a Jacaranda, and two Cadagi's) would have overhanging limbs pruned back "to or near" the boundary line, and that the mango tree be pruned "in a balanced manner in conjunction with an arborist". All this was agreed by both parties and to be at the expense of the developer.

4)

**Need.**

There is no need for this DA.

Byron Shire is well on track to meet the State's residential housing strategy, and Byron Bay is ahead of requirements.

A large block of undeveloped land sits empty for several decades until it is deemed to be worth \$3 million based on its "market potential"; resulting in a developer who then needs to ramp up the density to cover this excessive outlay plus a profit.

Where is the affordable housing component in this DA? Council's 2104 LEP Clause 6.7 states:

*"(2) Development consent must not be granted for the purposes of residential accommodation or to the subdivision of any land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone B2 Local Centre or Zone B4 Mixed Use unless the consent authority has considered—*

*(a) the need for providing, maintaining or retaining affordable housing, and*

*(b) the need for imposing conditions relating to providing, maintaining or retaining affordable housing including, but not limited to, imposing covenants and the registration of restrictions about users.*

*(3) For the purposes of this clause, affordable housing means housing for very low-income households, low income households or moderate-income households. “*

There is no consideration for the provision of affordable housing in this development. Countries all over the world are mandating all new developments include a percentage of affordable housing. If there is a need in Byron Bay for any additional housing it is for affordable housing not in \$1.2-\$1.5M townhouses. There is no need for this development; but surely, though we cannot legislate against greed, we can adhere to Council's LEP.

5)

#### **Traffic**

Ten buildings according to the developer's figures will produce an additional 90 vehicle movements to Keats St and Bangalow Rd. Keats St currently suffers from cars parked on both sides all day, these additional vehicle movements will just exacerbate the problem. NO 7 Keats St is an approved development under construction for five dwellings, this will generate when completed a further 50 vehicle movements to add to these congestion issues.

The Council owned drain/swale will require periodic maintenance, there will need to be an easement along the southern boundary capable of handling heavy dredging equipment. Also, for the last 25 years the previous owner has been the trigger point to alert Council when maintenance is needed. Given these will be Strata Titled properties, what system of maintenance scheduling does Council propose will ensure this drain is kept in functioning condition?

6)

#### **Environmental Issues**

The Cumbebin Swamp is home to an enormous range of fauna, including wallabies, koalas, echidnas and pythons. Every encroachment on land adjacent to the Swamp places greater pressure on the fauna and increases the risk of injury and death.

#### **Conclusion.**

This development is oversized and overscale for this location., it will adversely impact on the amenity of all residents adjacent to it.

We would recommend a reduction in the number of dwellings from 10 to 8 by reducing Stage 1 from six to four dwellings and therefore increasing the spacing and set-backs from 3.0m to approx. 6.0m which itself would limit the direct impact to "one new dwelling for each existing dwelling" along Keats St. The reduced building load would lessen the stormwater impacts through the slow release tanks and provide increased pervious areas to minimise pressure on the drain/swale.



Alternatively, the same reduced number could be re-oriented through 90 degrees, so the longer axis was parallel to Keats St and then set back 6.0m from the Keats St boundary. This would have the advantage of again providing a greater buffer and improved privacy between each building and the existing Keats St properties. This would equally lessen the rainfall surge volumes to the drain, whilst also providing greater pervious areas for rainfall absorption and minimise resultant flooding.

This DA may satisfy Council's regulatory requirements; but that does not necessarily make it a good development that is in the best interests of the existing residents and ratepayers.

Please use the precautionary principle here, reject this DA as it exists or at the very least scale it back.

*(In addition, we would like to be kept informed of any variations made to this DA during its progress through Council.)*

**From:** [REDACTED]  
**To:** [council](#)  
**Subject:** Submission to DA 10.2020.215.1 6 Keats St Byron Bay  
**Date:** Tuesday, 2 June 2020 9:10:39 AM

---

Further to our submission to this DA of today, we would like to flag an addendum to follow. We have been unable to get answers to important questions regarding the use and operation of detention tanks as well as relevant input data used by the applicants in the DRAINS modelling. Without this information we are unable to fully evaluate by what methodology does the hydraulic performance of above ground tank modelled in Appendix F translate to underground tanks?

Once we have access to this information we would ask to be able to submit further comment on this DA.

Regards

[REDACTED]



**From:** [Larkin, Chris](#)  
**To:** [Holland, Ivan](#)  
**Subject:** Fwd: 6 Keats St Development DA 10.2020.215.1  
**Date:** Tuesday, 19 May 2020 4:37:27 PM

---

Please register as objection

Chris

Sent from my iPhone

Begin forwarded message:



**From:** [Redacted]  
**Sent:** Monday, 11 May 2020 11:47 AM  
[Redacted]  
**Subject:** 6 Keats St Development DA 10.2020.215.1

Hi,

I am writing on behalf of ourselves and neighbours on Bangalow Rd and Keats St regarding the proposed development at 6 Keats St (10.2020.215.1)

This is an enormous development of ten two-storey houses and ten pools. This recently subdivided land abuts a culvert (that runs from Mott St under bangalow rd and through an easement) besides the Cumbebin Swamp. The culvert runs along its entire southern boundary of the proposed development.

The land is frequently subject to flooding owing to its low lying location, proximity to the Swamp and indiscriminate filling over the past decades.

We have a number of concerns with this proposal:

- 1) The proposal indicates that all rainwater falling on the buildings will be channelled through ten 5000litre (one per dwelling) water tanks fitted with slow release valves that will contain any rain water surges and slowly release them to the adjacent culvert. Meanwhile all ground water will be directed to the culvert.

It has been a long running bone of contention as to whose is the responsibility for the up-keep and maintenance of this culvert. Neither Council nor the previous owners appear willing to accept this critical requirement.

2) Although it would seem logical to have the entertainment and outdoor areas located to the north of each property, this places all the noise and daytime activity right up against the Keats St residences. All bar one of these homes is single storey, the loss of privacy will be immense.

3) The encroachment of housing on the sensitive flora and fauna native to the Cumbebin Swamp is a major worry, we have wallabies, echidnas, koalas, pythons, and many many other vulnerable creatures that share the land around us. Already we have had instances of pythons being killed and maimed because of human intervention due to lack of knowledge/care.

4) This one is just about the potential loss of amenity to a whole group of residents, many of whom have lived where they are for 20,30 ,40 years. These ten houses will greatly diminish their ability to enjoy their piece of Byron Shire from a small to an enormous extent depending on proximity. In our case at 44 Bangalow rd, Lot 10 will block the entire westerly aspect being almost 9.0 metres high and just under the width of the block. We will lose afternoon sun at between 3-4.00 pm seasonally.

We urge you to consider the impact of such an enormous development on the daily lives of so many and although we are aware that Council provisions will ensure some development goes ahead on this site, we would look for some scaling back of the project to better reflect its position in this sensitive location.

Please feel free to contact us for more details.

Yours

[Redacted signature block]

[Redacted signature block]



The General Manager  
Byron Shire Council  
PO Box 219  
MULLUMBIMBY

2482

29/5/2020

Dear Sir,

**RE: DA 10.2020.215.1 - PROPOSED 10 DETACHED DWELLINGS AND SWIMMING POOLS AT 6 KEATS ST BYRON BAY - PARCEL NUMBER 269978**

This is a submission by way of an objection to the proposed development at the subject property. I own two properties at [REDACTED] Keats St. and [REDACTED] Keats St. which will be adversely impacted by this development. There are 4 elements to this objection:

**1. No Community Consultation has been undertaken**

DCP 2014 part A13.4 requires Community Consultation to be carried out for **Community Significant Developments** which are defined in the Appendix to part A of the DCP as, among other things, *residential accommodation resulting in 10 or more dwellings*.

This development will result in around a **70 % increase** in the number dwellings at the end of Keats St with an additional 90 vehicle movements per day in the street and is clearly a *Community Significant Development*. The Developer has made no attempt to carry out any form of community consultation and this application should be withdrawn and consultation carried out to comply with DCP 2014

**2. No Traffic Impact Assessment has been provided**

Section B4.1.2 and B4.2.1 require all traffic impacts to be *identified, assessed & mitigated*. The application has made no attempt to do any of the above in relation to the impacts of the additional 90 vehicles/day or 9 vehicles/hr using Keats St. or the already difficult to negotiate intersection with Bangalow Rd. The SEE by Ardill Payne & Partners has devoted a whole one line in section 4.4 of the SEE to "identify, assess & mitigate traffic impacts and from this development and this is inadequate for a development of this scale being imposed on the current road network. A full **Traffic Impact Study** needs to be provided by the Developer and their consultants to comply with part B4 of DCP 2014.

**3. The existing carriageway geometry of Keats St is inadequate**

The carriageway width of the end of Keats St at the development site is only 5950mm between kerbs. The the NSW Development Design Specification D1 table D1.5 sets out the geometric requirements for various road classes based on daily traffic volumes. The end of Keats St has the following pre and post development traffic volumes:

Pre development:	8 houses & 6 units	108 Vehicles/day
Post Development:	18 houses & 6 Units	198 Vehicles/day

This represents more than an **80% increase** in the daily total vehicles using the end of the street. Based on these traffic volumes, Keats St is classified as a Local Road and should

have a carriageway width of 7-9m. The current carriageway needs to be widened to around 7.5m to comply with the Development Design Specification requirements. No details have been provided for any proposed work in the road reserve. The SEE by Ardill Payne & Partners has devoted a whole one line in section 4.4 of the SEE to "identify, assess & mitigate traffic impacts and from this it is assumed that they are not planning to do any work in the road reserve. **This is totally inadequate for a development of this scale.**

#### **4. No information has been provided for the driveway connection to Keats St**

The plans submitted do not provide any details of the proposed driveway crossing location or width.

#### **5. Summary**

The proposed development submission is incomplete and does not comply with the requirements of DCP 2014 in a number of critical areas and should be withdrawn or refused.

- No Community Consultation has been carried out - does not comply with A13.4 or A13.4.1
- No Traffic Impact Study has been provided - does not comply with B4.1.2 aims or B4.2.1
- The road carriageway in Keats St does not comply with the requirements of a *Local Street* as set out in the NSW Development Design Specification D1 table D1.5


Please call or email if you need any further information

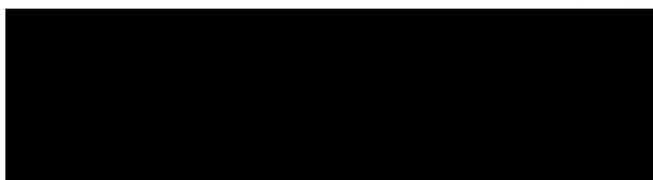
Yours Faithfully



Philip Wallace

#### **POLITICAL DONATION DECLARATION**

I  declare that I have not made any political donations or gifts to any councillor or council employee in the previous 2 years from the date of this submission



2/6/2020



**From:** [REDACTED]  
**To:** [Holland, Ivan](#); [REDACTED]  
**Subject:** URGENT- Attn : Ivan Holland- 10.2020.215.1  
**Date:** Monday, 25 May 2020 10:11:21 AM

---

Hi Ivan;

I trust you are well!

My name is Stephen Draper, my partner Sally and i own 8 keats st [lot 9 D.P.622728-8], of which this DA property wraps around.

I have just had a chance yesterday to have a thorough look at DA and there is some glaring oversights / inaccuracies of statement, or fabricated statements contained within1/ these documents by the applicants.

**1/ At no time has this party of developers, or their representatives consulted or contacted me or my partner PRIOR TO THIS DA BEING LODGED.**

[Check "Addendum to SEE" for statement].

**This is blatantly wrong, pre- lodgement community consultation should be normally required.**

**2/ After checking this DA we have significant objections to the negative impacts residents may suffer from this development if it were to proceed in it's current proposed format:**

a/ Significantly increased traffic volumes created by the development would be a significant impact on our resident amenity.

Traffic entering & exiting the property on the 1 drive, excess overflow of visitors vehicles attempting to park in the Keats st carriageway that is extremely narrow already, would be the likely negative outcome.

I believe Keats st carriageway would need significant widening and improvements prior to a development such as this being proposed is allowed .

b/ The density of the proposed new development and resultant numbers of people /occupants staying at these abodes would likely result in significant noise & general amenity impacts.

With the published very high numbers of short term holiday letting [AIR BNB etc.]; statistically a significant percent of Byron properties are morphed into these businesses. I am not suggesting this will be the case in this dev, but as the numbers of STHL are high, there are documented impacts in the community from clustered STHR in local streets..

c/ Waste- With this level of density & possible occupant churn, where would garbage waste be collected, would trucks back into the private drive to collect 20 or so bins, or would these somehow be on the small street frontage?

3/ Drainage issues in the part of Keats st have been problematic over years , so there may need to be further diligence by responsible authorities in scrutinising capacity of these services to protect local fragile ecology..etc..

**This is a brief overview of negative impacts & concerns that i thought i better email straight away, and can produce a more formalised DA response given adequate**

time.

**In summary, this proposed DA design needs to be withdrawn until diligent community consultation is carried out thoroughly [this is required by DCP2014] , as the current proposal has not had this, and is proposing not having this carried out by council..**

Best Regards





**From:** [Holland, Ivan](#)  
**To:** [submissions](#)  
**Subject:** FW: Hi Ivan - ADDENDUM TO - 10.2020.215.1  
**Date:** Thursday, 4 June 2020 11:43:53 AM

---

Ivan Holland  
Byron Shire Council | P: 02 6626 7265 |

**From:** [REDACTED]  
**Sent:** Wednesday, 3 June 2020 11:04 PM  
**To:** Holland, Ivan <iholland@byron.nsw.gov.au>  
**Subject:** Hi Ivan - ADDENDUM TO - 10.2020.215.1

[REDACTED]

Thanks for your time with my objection lodgement .

Listed below is an addendum compilation to my objection to D.A. 10.2020.215.1

**Site confounds - development & layout** - DCP 2014 Clause 11. More detailed hydro / water quality assessment is mandatory, based on the wetland being situated around the property. 10 Pools onsite would also form part of the overall water assessment.

Existing Byron 'hydrology of the future' should guide this low lying land development, with future water quality modelling to help mitigate risks to local fragile ecology, & future risks to this sites occupants & to neighbouring & nearby properties & people..

With so many low lying properties and the low gravity pre- existing hydro -waste infrastructure at this location, there is currently water & waste inundation from other current property developments in this street [currently flowing into our property].

How will we be safeguarded from water inundation & any dangerous or contaminated runoff whilst this property is developed? This is not contained adequately in the DA for the site constraints?

**Waste Collection:** A more detailed plan of access for waste collection from the property is required. 'Heavy waste vehicles' and probable tight access to the end of Keats St may pose site collection issues, if the end of the street is 'clogged' with vehicle overflow from this development.

I note the driveway into the proposal is to be 'moved' so that driveway is only 600mm from my property border [REDACTED] as it meets Keats St carriage. A 1.5m DRIVEWAY distance is more 'reasonable' in this residential setting. [Note- This is not a commercial zone].

**Vehicle access / egress-** With a very significant increase in vehicle movements in & out of the properties, this development is not tenable for this part of Keats St in its current street format.

1/ The Keats St carriageway is currently too narrow to accommodate the increased volumes of traffic.

2/ The 'overflow' vehicles from the development may block parts of the Keats St carriageway, reducing the 'vehicle to pedestrian' visibility & the driver sightlines to

pedestrians , endangering the most vulnerable in the street [elderly & children] . This street is too narrow as well as too short to accommodate large volumes of probable 'overflow' car parking & to allow vehicle movements as well.

**2b Onsite carparks-** One 'house' is listed as 'adaptable 2 story dwelling' . These styles of multi use dwellings are often advertised for '10 plus inhabitants' by many 'short term holiday letters' [STHL] in Byron & **this dwelling format should have several extra carparks provided for this 'adaptable dwelling'** . [not suggesting this will be STHL, but many often are statistically!].

3/ Keats St & Bangalow Rd intersection will be very difficult & potentially more dangerous for the multiplied volumes of vehicles entering & exiting Keats St [and for pedestrian crossings]. Further traffic control features would be required.

The planned pedestrian crossing in Bangalow Rd may need to be re- formatted to accommodate a larger volume of vehicles movements.

4/ A diligent traffic assessment must be submitted to comply with DCP 2014.

**In summary, this proposed DA design needs to be withdrawn until diligent community consultation is carried out thoroughly [this is required by DCP2014] , as the submitted DA proposal 10.2020.215.1 does not adequately address several requirements as per Byron DCP 2014.**

Best Regards

