



the General Manager
Byron Shire Council
PO Box 219
Mullumbimby 2482

22 August 2018

objection to DA 10.2018.384.1 for
183 Coopers Lane West, Main Arm 2482

Dear GM

I have objected to the building referred to in this DA as the "Dual Occupancy" dwelling since then owners Anna and Tim commenced building it. In 2016 I complained to Council when the next owner Grant Luisetti removed trees and duplicated the building eastwards. Council apparently issued stop work notices at the time but did not enforce them. Construction was completed 'under our noses'.

Council eventually issued an Order to demolish the dwelling and to restore a further (rented) shed to its original form. Council mistook that form as including an approved metal shed. That approval however belongs to a different Lot, not Lot 2. The original form of the shed prior to being made habitable by Luisetti was an uninhabitable set of metal sheets that may have once been a banana shed from the 1960s.

The Order was lifted on the basis that a DA would be submitted to legitimise the buildings. The property was then sold to its current owner. The current DA seeks to legitimise the condemned dwelling but fails to address the issue of the shed, whose location is indicated at "Shed" on site plans within the DA (eg at PDF pages 76 and 122 of 131).

I suggest that, if approval is considered, a Consent pre-Condition requires that the structure marked as Shed on the site plans (reference ...) be removed or restored to its earlier uninhabitable and unserviced form (a dilapidated banana shed).

The Dual Occupancy dwelling was built with no government approvals. The then owners chose to locate it smack in the middle of the view from my approved dwelling. It remains an eyesore, made worse by Mr Luisetti felling about 50 tall trees that used to partially screen it. Re-establishing that screening is impossible under the current proposal but the issue can be resolved by relocating the building northwards, out of my view and if necessary as far as the proposed module. It is a light-weight structure and investment in foundations was minimal. I wrote to prospective owners early in 2018 via the selling agent alerting them of my request. Relocation would have been easier prior to construction about 10 years ago. It would have been easier prior to expansion in 2016. It is still necessary.

The lightness of foundations for the building is another issue for it. The current DA ignores this issue. Why is there no Structural Engineer's report on building foundations? To my knowledge they are undersized and were a headache to the previous owner, for reasons including:

- the site was chosen by unqualified persons, without soils testing;
- the foundations were not designed; they are extremely shallow (one fifth the depth of those on my own building, in the same soil type) and were concocted by the backhoe operator;
- the site gets extremely wet due to stormwater from two roadways directing their runoff onto Lot 2 at their intersection just uphill of the building;
- the weight of the building has increased massively with refurbishment.

Relocating the building overcomes the need for a structural report for its current site. If it is not to be relocated, the foundations need to be investigated for structural adequacy.

In relation to what is applied for in the DA, I submit the following:

1. the estimated cost of \$135k is low - it ignores investment undertaken prior to lodging. This includes expenditure on the unlawfully built "Dual Occupancy" dwelling in particular. Ignoring this matter gives yet further incentive to the illegal development industry. If the \$135,000 cost figure is accepted, it constitutes a discount to illegal development.

The opposite scenario should apply - development applied for and approved prior to construction should be the cheapest option. Please do not give poor practice a free ride!

Please reassess the cost of this development as including costs of everything applied for that was not previously approved. I estimate that at \$400k including: all expansions of the approved dwelling since its approval; cost of constructing the Dual Occupancy building; cost of the proposed module; infrastructure such as on-site sewerage, driveways, etc.

2. in relation to Construction Certificates (Step 10; PDF page 3 of 131), no certificate is submitted for the existing Dual Occupancy building. Why is a Certificate not required? When will the question of the integrity of this jerry-built structure be examined? This impacts on the current DA because, when the poor nature of the construction (both original and expansion) is established, my suggestion of relocating it downhill becomes the best option for all parties.
3. the DA's Introduction (PDF page 10 of 131) claims that all development and works are to be located within the dominant RU1 zoned section of the property. This is wrong. There is no survey to support the claim. Some of the development is proposed in the 1B2 zone of the previous LEP and is zoned as Deferred Matter in the current LEP 2014. Lack of survey and wild claims of distances pervade this Application. Survey should be required.
4. PDF page 10 also claims that existing buildings are of cream and grey cladding with light grey colourbond roofs. This is repeated through the DA but is incorrect. The unapproved dwelling has walls of various colours not cream or grey. It has various roof colours not light grey - they include green and brilliant white.
5. removal of Grey Ironbark trees as applied for (eg at PDF page 12) and should not be approved as the building cannot be approved in its current unapproved location.
6. this proposal meets neither of the Objectives in Clause 4.2A of LEP 2014. It does not "minimise unplanned rural residential development". Demolition of the unlawfully built Dual Occupancy building would achieve that. The proposal also isn't to replace a lawfully erected dwelling houses or dual occupancy. The proposed Dual Occupancy must not be approved in its current location - that location was unplanned and the building was erected unlawfully. A correctly planned location would not be on the current site.
7. part (3) of Clause 4.2A of LEP 2014 prevents Council approving this proposal because:
 - (a) the land does not meet the minimum Lot size 20ha prescribed on the Lot Size Map;
 - (b) it is not a Lot created under this LEP;
 - (c) it was created before LEP 2014 commenced but with permission only for a dwelling house, no dual occupancy; and
 - (d) no plan of subdivision was awaiting registration when LEP 2014 commenced.

The primary criterion of a 20ha Lot area is not met. Despite claims on the DA's PDF page 13, the Dual Occupancy proposal is not permissible.

8. part (2) of Clause 4.2D of LEP 2014 also prevents Council approving the proposed Dual Occupancy because:
 - (b) each dwelling uses a separate access to a narrow shared road with very steep slopes and with blind curves and corners including at all three current entrances;
 - (d) the land is not physically suitable for the proposed development due to it being:
 - (i) too small at 2.18ha - one ninth of the minimum 20ha;
 - (ii) being bush fire prone with steep slopes downhill of it and inadequate distances for APZs within the Lot, as discussed later in this submission;

- (iii) having inadequate access both for fire safety and for addition of another dwelling's traffic to that of the dozen properties that already risk their lives on this narrow steep private access track with blind corners.
 - (e) the property is incapable of supporting the required on-site sewage infrastructure which is why the proposal includes a self-assigned concession on Nitrogen balance in its design (PDF pages 58, 74, etc). The disposal area proposed is about half what it should be - see attached spreadsheet model. No basis for the concession is explained nor is it proposed as a request, because that would expose the fact of inadequacy of the property to support the infrastructure required;
 - (f) the development will have an adverse impact on the scenic amenity and character of the rural environment in this locality. There are dozens of buildings in Coopers Lane West but all are discretely located, all are out of view of their neighbours. There is no basis on which to break with this positive community practice other than that the building already stands in its poorly chosen location. The Dual Occupancy proposal should not be approved on that site.
9. in relation to setback distances (DCP D1.2.2; PDF page 16), the distances claimed are large but not the product of a survey. They ignore a problem with the proposed Dual Occupancy building, which comes to within 6m of the centreline of the access track to about 10 properties further up the hill. The RoW is 5m wide and restrained in the east at the Dual Occupancy by a telephone pole (essential infrastructure for many existing approved dwellings). This DA proposes a bedroom just a couple of metres from that access track, in a rural area where this tight style of development is neither necessary nor welcome. This is not an urban area and is not zoned so.
 10. in relation to setback distances (DCP D1.2.4; PDF page 17) this proposal offends Performance Criterion 3 "minimise loss of privacy". The Dual Occupancy is in full view of my approved dwelling and has full view of my dwelling its surrounds. No screening is proposed, or possible, because of slope and because the proposed APZ must be free of tall trees. At the edge of the proposed 50m western APZ, a tree would have to be 9m taller than the building to effect screening (see my point 54 below). In addition to that, the building is far less than 50m from my boundary and the proposed APZ is not even contained on Lot 2.

I do not give permission for management of the proposed APZ on my property.

11. in relation to setback distances (DCP D1.2.4; PDF page 18 of the DA) this proposal offends Performance Criterion 8 "incompatible and reflective materials". The DA claims roofs will be Shale Grey and walls light cream and grey - these are not the current colours. Roofs on the Dual Occupancy building are green and bright white. If the whole building is to be re-roofed, this should be articulated in the DA but isn't. The current white roof is extremely reflective. Current green roofing does not match the surrounding bush.
12. the DA claims at the bottom of its PDF page 17 that "pitched profile roof, soft elevation lines ... blend the proposed dwelling into the site". As this building already exists on the site, it can be examined in situ at a 1:1 scale. The pitched roof makes the building way taller and dominant than it need be. It can claim no soft elevation lines.
13. DCP part D1.3.1 cites part B4 *Traffic Planning, Vehicle Parking, Circulation and Access* for parking and access requirements. The chapter aims 1. to ensure that all relevant traffic impacts relating to development are identified, assessed and mitigated; and 2. to ensure that entry/exit points to car parking and service/delivery areas are situated in a way that sight distances are maximised, and disruption to the circulation of vehicles on the public road system is minimised.

The DA ignores part B4 of the DCP. If the DA considers the *banana road* that passes through Lot 2 to serve about 10 other properties as private, then that approach should be carried across into bushfire assessment elsewhere in the DA. If it considers the road public, then the impact of the Dual Occupancy building needs to be considered. It is so close to the RoW that the 5m width required for passage on the RoW is not available.

In addition, the two existing entrances to the original dwelling and the separate new entrance proposed to the Dual Occupancy are a nightmare for uphill road users. The original two require vehicles to back out onto the shared roadway at a pinch point. The latter is blinded by landscaping that usurps the RoW in an attempt to screen the building.

The proposed arrangements are unsatisfactory, whether required by the DCP or not.

Clause 2 of DCP section B4.2.3 states "All parking and service areas shall be provided with sufficient manoeuvring areas to allow vehicles to enter and leave the site in a forward direction. Dwelling houses and dual occupancy developments are exempt from this requirement except when located on roads with high traffic volumes or with short sight distances, or on roads with other traffic safety issues". This proposal is on a road with short sight distances, and other safety issues (steep slope, inadequate width, etc).

Clause 5 of the same section states "Internal driveways for more than three dwellings should have a minimum driveway width of 5.5 metres to facilitate two-way access. The driveway width may be reduced to a minimum width of 3.5m where there are no potential internal driveway conflicts or traffic safety issues having regard to the following". The factors b), c) and d) listed thereafter are illuminating - this proposal flies in their faces.

Landscaping at the entrance to the proposed Dual Occupancy offends DCP section B4.2.4 *Structures Adjacent to Driveways*, making the entrance dangerous as well as it contravening the multiple entrance issue.

14. the DA claims against DCP Objective D1.3.1 that car parking at the original dwelling is off the RoW. There has been no survey to show that is off the RoW. Likewise, no survey shows where the Dual Occupancy sits in relation to the RoW or to property boundaries.

15. in relation to DCP part D2.5 *Rural Dual Occupancy*, the proposal fails to meet the Objective of "adequate on-site accommodation of vehicles for residents and visitors". Parking for the original 3-bedroom dwelling plus 2-bedroom module is not adequate for a 5-bedroom dwelling with no transport option other than private motor vehicles. Both entrances require backing out onto the RoW. The entrances are located on and at the crest of one of one of the steepest and narrowest sections of the RoW, "the S-bend". Only three parking spaces are proposed. This is not adequate for residents and visitors of a 5-bedroom dwelling. Parking will occur willy-nilly all over the RoW, to the detriment of safety on the S-bend and of convenience for other road users.

Section 4.2 *Access and Parking* (PDF page 51) of the DA fails to adequately address the matters of access and parking. As explained above, the access proposed is unsafe. The two-entrance arrangement for the 5-bedroom dwelling does not "optimise traffic safety" as claimed. This section of the DA fails to even address the access or parking for the proposed Dual Occupancy building.

These matters must be resolved before this DA can be assessed. If the current proposal were to gain approval, it would have to be with Consent Conditions requiring adequacy.

16. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails Performance Criterion D2.5.1 of a shared driveway. Three entrances are proposed. And it is unreasonable for the DA to claim that sharing of a driveway happens off Lot 2. That would mean that the "driveway" is over 1km long, ie back to the public road Coopers Lane.

These buildings, if approved, must share one access onto the steep, narrow, dangerous "banana road" that serves about 10 Lots further up the hill. The current three entrances are an unreasonable impost on both the safety and convenience of uphill road users (residents and their visitors).

17. The DA claims in the right hand column on PDF page 19 "2 cars per dwelling". This is indicative of an Application so full of flaws that this DA should be re-exhibited after this and its many other mis-claims and anomalies are corrected. DCP part D2.5 *Rural Dual Occupancy* is the lynchpin of how the developer and Council deal with this proposal, which aims to legitimise an existing unlawful Dual Occupancy. It should be respected.

18. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails to meet the first Objective of section D2.5.2 - compatibility in character with development in the locality. The DA responds to this section by claiming that "the visual isolation of the existing building ensures that it blends into the rural character of the locality". This is a ridiculous claim. There are no other Dual Occupancies on the hill and this proposal is an eyesore as well as a perfect example of poor development practice: the build first and seek forgiveness later approach.

As raised above, the proposed Dual Occupancy building is located too close to the RoW. To overcome this, the RoW is currently densely planted and includes solid obstacles. This prevents adequate operation of the RoW, which should allow a passage 5m wide.

Also, as I point out elsewhere in this submission, the Dual Occupancy building is located where adequate bushfire APZ's cannot be created or maintained.

Thirdly, the proposal fails the shared entrance requirements of the DCP.

Such tight development pays no respect to the rural character of the locality. This feeds back into the LEP requirement that the Lot have sufficient area for the development proposed. This Lot is one ninth of the minimum 20ha area.

The DA fails this DCP concept and does not conform to the LEP zoning.

19. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the second Objective of section D2.5.2 on minimising footprint through the location of dwellings and the use of shared services and common areas. The Dual Occupancy dwelling should be relocated close to the original dwelling so they share a single driveway entrance, on-site sewerage and common APZ's. There is insufficient land area for what is proposed in this DA. The LEP requires that sufficient area be available - hence its minimum land area of 20ha.

20. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the first Performance Criterion in section D2.5.2 "design to minimise loss of privacy, the visual impact of the proposal". The DA only once considers the visual impact of the proposal, in its section 3.8 on PDF page 50. It dismissively and wrongly says "the western dwelling is visible from a distant elevated dwelling on the other side of the valley to the west. Screen plantings will overcome this overlooking within the next few years".

There is no valley on the line of sight from my dwelling to the site proposed for the Dual Occupancy building. It is not on the other side of anything and it is not distant.

Nowhere in the DA are screening plantings proposed. The scale of planting required (see my point 11 above) is not permissible within an APZ proposed in the DA for the Dual Occupancy.

I do not give permission for management of the proposed APZ on my property. Likewise, I do not give permission for screening to be established on my property, whose boundary comes very close to the Dual Occupancy building.

21. The DA's section 3.11 Relationship to Adjoining Development, fails to address negative impacts of this proposal on my approved development. The siting of my dwelling was chosen on the basis of not having to look at other buildings. I object to the value of my property being diminished by the imposition of this overdevelopment in an unnecessary location dominating the vista from my approved dwelling.
22. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the second and fourth Performance Criteria in section D2.5.2 - visual quality and visual amenity.
23. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the 2nd Prescriptive Measure in section D2.5.2 (b) same vehicular access.
24. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the fourth Prescriptive Measure in section D2.5.2 (e) on-site disposal and management of sewage. The DA proposes a concession on Nitrogen balance at PDF pages 58, 74, etc. The disposal area proposed is about half what it should be - see attached spreadsheet model. No basis for the concession is explained nor is it proposed as a request, because that would expose the fact of inadequacy of the property to support the infrastructure required.

25. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the fifth Prescriptive Measure in section D2.5.2 (f) scenic amenity and character. There are dozens of buildings in this rural locality but all are discretely located, out of view of their neighbours. There is no basis on which to break with that practice other than that the Dual Occupancy building already stands, in its poorly chosen location. Approval should not be granted for it to stay on that site.
26. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the first Performance Criterion in section D2.5.2 "assessment of potential conflicts and buffer requirements pursuant to chapter B6". The DA commits to the current site for the existing Dual Occupancy building and thus fails to consider the siting question. A suitable site exists a short distance downhill where the building would not be seen by neighbours. Approval should not be granted for it to stay at the current location.

Section B6.1.1 *Purpose of this Chapter* in Chapter B6 states "The emphasis in this Chapter is on identifying current and potential future land use conflicts at the outset and designing to avoid them during the development process where possible". This DA proposes development that offends this principle.

Section B6.1.2 *Application of this Chapter* states "This Chapter applies to all of the land subject to Byron LEP 2014".

Section B6.1.3 *Aims of this Chapter* includes as its first aim "To ensure that potential land use conflicts are identified early in the development process". This DA is the very first step in a development process and this conflict should now be resolved, by the location of the proposed Dual Occupancy being shifted to a more discreet location downhill.

At section B6.2.1, the chapter declares an Objective "To ensure that existing legitimate development and land uses are not compromised by new development". This articulates the problem with the location proposed for the Dual Occupancy building in relation to my approved dwelling location.

At section B6.2.2, the chapter declares an Objective "To ensure that potential for land use conflict is identified and addressed systematically in the early stages of the development application process". This DA fails to address or resolve this conflict.

At section B6.2.4 *Buffers*, the Objectives include number 2 "To outline controls for buffers aimed at reducing land use conflicts between proposed new development and existing, legitimate land uses where development design and siting cannot deal satisfactorily with land use conflict". The principle is that siting is the primary method of avoiding land use conflict, to be used before and instead of other means such as buffer treatments.

27. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails the 2nd Performance Criterion in section D2.5.2 "... bulk, scale, height and character of the locality and nearby development". The DA proposes 7 bedrooms on this small property. Neighbouring properties are larger and have approvals for 2 or at most 3 bedrooms. The residential density proposed in this DA is out of whack with the rest of the neighbourhood.
28. in relation to DCP part D *Rural Dual Occupancy*, the proposal fails Performance Criterion 3b) in section D2.5.2 "reasonable protection of existing views from neighbouring houses". The DA proposes unnecessary damage to the view from my approved dwelling.
29. The *Summary* on PDF page 22 of the DA claims that the proposal "will in no way prejudice the proper future planning of the area". This is wrong. Firstly, were I to consider a Dual Occupancy on Lot 1 DP 405191, it could have been located close to the eastern boundary. If the proposed Dual Occupancy is approved in its current (unlawful) location, my Dual Occupancy would no longer be able to take advantage of the lower part of my property. Future planning of the area is thus prejudiced.

More importantly however, approval of the Dual Occupancy applied for in this DA will act as a precedent to similar development on this hill and must be considered in that light. If the dozen or so Lots that use the "banana road" duplicate their number of dwellings, that will double traffic in the long term and fill the road with tradies in the short term. If Lot 2 and other properties on the hill duplicate, the risk of bushfires will also double.

Further to these issues of road and fire risk, most secondary dwellings would be rented. There is inherent turn-over of tenants and they have a lesser feeling of belonging than do owner/occupiers. New drivers unfamiliar with the "banana road" are the biggest risk on the hill. Many such drivers have no concept of braking distances down hills like this, with slope > 15°. The road is narrow and near misses are already frequent. Most incidents are with visitors rather than permanents.

Many new rural residents also have no concept of bushfire and of precautions to avoid it.

These risks are real and a change that doubles the number of residences in this valley (or on undersized rural properties throughout the Shire) should not be taken lightly, nor at the behest of just one owner of a property that happens to contain unlawful buildings. The principle planning criterion of the LEP 2014 should guide this matter - second dwellings should occur on properties only when they are larger than 20ha.

30. Discussion under section 2.10 *Landscaping* of the DA (PDF page 23) suggests that landscaping "will achieve a broad habitat base within an urban location". I agree that this proposal urbanises a rural neighbourhood and I object to that. If reference to an urban location is a mistake within the DA, it is one of many and should be rectified along with all others, then the DA re-exhibited.

On the substantive issue of landscaping, there are at least two Site Plans within the DA. The Site Plan on PDF page 127 shows a solid row of "Compensatory Plantings" down the centre of Lot 2. This screens nothing except the unlawful "Shed", which is not visible from the west.

If this Plan was prepared "in conjunction with Mr D Sweet Ecologist" as claimed on PDF page 23, why is there no report or a "Landscape Development Plan" from Mr Sweet? Has he ever been to the site? Who is he and why is he not revealed by internet search?

31. As raised in my Points 10 and 20 above, the DA barely considers screening westward of the proposed Dual Occupancy. Prescriptive Measure 1b) of DCP part B.9.5.1 suggests screen planting around boundaries of the site. Prescriptive Measure 1d) suggests planting selection that relates to building scale and mass. Also as in my Points 10 & 20, screening is likely impossible by planting as the APZ cannot contain large trees.

If otherwise approvable, the proposed Dual Occupancy building should be relocated.

32. Prescriptive Measure 1a) of DCP part B.9.5.1 suggests retention of existing vegetation. In assessing this DA, Council should recall that in 2016 a previous owner unlawfully felled significant eucalypts on each side of the Dual Occupancy building, as part of this development process. Council has records of the tree removal, under complaint reference 30.2016.6435.1. Compensatory planting should be required so that the building is screened from the west. If this is not feasible due to bushfire requirements, an alternative building location should be found.

As stated at Prescriptive Measure 11 of DCP part B9.3 *General Landscaping Principles*, "where the proposed development is located on land mapped as Bushfire Prone Land, landscaping around proposed buildings must comply with the current legislative requirements of the Rural Fires Act, 1997 in regards to measures required to protect the proposed development from bushfires". The fire arrangements for the proposed Dual Occupancy building do not pass muster.

DCP part B9.12.3 Climate and Microclimate includes one Prescriptive Measure that "in summer the western elevations of buildings should be protected from the afternoon sun with trees of suitable mature height". The location chosen for the Dual Occupancy is again unsuitable because this measure, although highly desirable for visual screening, is incompatible with a cleared APZ as proposed for bushfire protection.

If otherwise approvable, the building must be relocated so that these Measures and others can be applied.

33. The DA claims on PDF page 27 that "the proposed landscape plantings ensure that the buildings will be well screened both within the site and from adjacent properties". Nowhere in the DA is any planting proposed west of the Dual Occupancy building. The claim is ridiculous, a total dismissal of an important issue. The developer should deal with this issue and several others as outlined above, so the DA can be re-exhibited.
34. Given that the DA is so flawed in other areas of consideration and that Mr D Sweet is not cited as making the claim on PDF page 29 that "no species of threatened native flora exist on the site", this unsubstantiated claim should be challenged and a proper flora assessment undertaken.

The DA claims that "the site is currently devoid of significant natural vegetation stands". However, once the APZ is re-assessed as requested in this submission, a significant stand of native vegetation down the steep gully north-west of the Dual Occupancy site will have to be included in bushfire considerations. The site is thus not "devoid".

This section of the DA needs rethinking, unless the Dual Occupancy site is shifted north to a more suitable location.

35. Information provided on PDF page 29 is yet another example of flawed preparation within this DA. The DA claims in sentence three of the fourth bullet point that "spot levels are shown on plans" and that "the site is relatively flat". Both these claims are false.
36. Section 2.11 on PDF page 31 of the DA raises the issue of Bushfire. Assuming the assessment that follows is by the DA's author C Lonergan, I ask whether he is qualified for the task. Errors abound and raise doubt over the author's competence in this field. The first example of this is on PDF page 32 with the claim under "Slope" that it is "flat" over distances of 100m from buildings. There is a gully of about 50m elevation on Lot 2. It is located about 70m north-west of the proposed Dual Occupancy building site, as shown in the Google Maps picture below.

The gully is beyond climbable - slope is likely 45°. Fire risk up that gully is extreme.

The bushfire section of the DA should be rejected.



37. The picture above also indicates an area devastated by the previous owner felling about 50 mature pine trees due west of the proposed Dual Occupancy building, which sits at the south-east end of the distance indicator. This 'tinderbox' of dry softwood includes dead tree carcasses suspended up to 3m above ground level by poor felling.

The DA claims an APZ of 50m west of the building. Apart from that distance extending well onto my property, it includes this highly flammable material.

(DD:DD to BSC re DA378, page 8)

Bushfire claims of this DA should be rejected and the matter reconsidered by a qualified and competent expert, preferably independent as should be the case with through RFS.

38. At the top of PDF page 34, the DA claims "50m west of the Dual Occupancy Dwelling ... will be maintained as lawn and isolated trees". This illustrates the following issues:
- (i) 50m from the building is well over the boundary, ie off Lot 2. I give no permission for APZ maintenance on my property and I ask that the building be screened by trees.
 - (ii) within the 50m distance are fallen pine trees in tinder dry condition.
 - (iii) the idea that 50m is adequate ignores the steep forested slope northwest of the Dual Occupancy building. The distance falls short, as does the assessment itself.

39. In the Table on PDF page 35, examination of only the four compass points overlooks the critical direction north-west. Under correct RFS procedure terrain must be examined for at least 100m in all directions (RFS guide *planning for bushfire protection* of 2006, "PBP"; in its Appendix A, section A4.1). As raised in point 34 above, there is a steep forested gully to the north-west. The *Huonbrook* 1:25,000 topographic map for this area shows a fall of 4 contours (ie 40m) over 100m in that direction. That is a slope of 1 in 2.5, or 21°.

Slopes of 10-15deg claimed in the DA are wrong. There is no evidence of survey or of measurement of slope. This oversight is yet another flaw in the DA documentation.

Under PBP Table A2.5, an APZ of 45m is required for downslopes of 18°. The PBP then also says "effective slopes to be assessed with hazards in excess of 18 degrees will require a detailed performance assessment". That is the case for the proposed Dual Occupancy building - a detailed performance assessment is required.

Bushfire matters should be re-examined, by a qualified and competent expert preferably independent as should be the case through the RFS.

40. At PDF page 35, the DA addresses fire-fighting access by implying that the banana road RoW constitutes "Public Road Access". The nearest public road is Coopers Lane, about 2km away. Coopers Lane West from there is a "public" Right of Way only between the two cattle grids. There is no maintenance agreement for any of Coopers Lane West. The DA overlooks this issue, which would be a critical detail in a proper assessment.
41. Coopers Lane West is not all sealed as erroneously claimed in the DA. The first part between the cattle grids is unsealed as is a further 300m flat section west of that.
42. The width of the banana road west of the second cattle grid is generally 2.5 to 3m. Slopes range up to and probably over 15°, including a long slope at 15° gradient with a blind corner near the top. The banana road passes through steep dry sclerophyll forest for most of its length and is the sole access to Lot 2, except for an even steeper concrete strip track to the south. That route is privately owned by several owners, passes through forest and is sometimes locked in one and sometimes two locations.

The DA fails to even mention these factors.

43. Chapter 1 of the PBP includes a highlighted box on the Aims and Objectives of the PBP. Objective (iv) is "to ensure that safe operational access and egress for emergency service personnel and residents is available". This objective cannot be met at this site. The property's entitlement should not be expanded beyond the single dwelling already allowed and built. Dual Occupancy should not be permitted on this property or any other on this hill.
44. Section 2.4(a)(ii) of the PBP says "Section 79BA of the EP&A Act requires compliance with PBP and, where an infill proposal does not comply with acceptable solutions in Chapter 4, consultation by the consent authority with the RFS is required ". Infill development proposed in this DA does not comply with acceptable solutions, for reasons explained elsewhere in this submission. The RFS must be consulted.
45. Section 2.4(b) of the PBP says "The consent authority is only required to consult with the RFS under section 79BA when a proposed residential dwelling (i.e. infill) does not comply with the "acceptable solutions" within section 4.3 of this document or meet performance requirements".

This DA proposes infill development that does not comply with the acceptable solutions and does not meet the PBP's performance requirements. The RFS must be consulted.

Local RFS officers do not think this hill can be safely serviced.

46. Under PBP section 4.3.2, proposals for infill development are to (amongst other things) "not result in an increased bush fire management and maintenance responsibility on adjoining land owners unless they have agreed to the development".

As I do not agree to the Dual Occupancy building proposed in this DA, the proposal does not meet the Objective described in PBP section 4.3.2.

I also object to the increased fire risk to my property from a new dwelling downhill.

And I object to the 50m APZ required for the Dual Occupancy as that comes onto my land and prevents screening of the building from my view.

47. Apart from the DA's proposed Dual Occupancy building failing s4.3.2 *Specific Objectives* of the PBP, it also fails the second paragraph of that section: "ideally, APZs, access and service supply standards for infill developments should be provided in accordance with the acceptable solutions applied to residential subdivision (see section 4.1)". Issues in PBP section 4.1 where the proposal fails include:

- (i) being bush fire prone with steep forested slopes (> 18°) downhill and inadequate distances for APZs within the Lot;
- (ii) poor fire-fighting access including a long, steep, forested and narrow track with no acceptable egress and no maintenance plan;
- (iii) the addition of extra fire risk to the locality.

Sections 4.1 and 4.2 of the PBP apply to this DA because it is unable to satisfy the criteria qualifying it for section 4.3.

48. Further relevant issues raised in the PBP include lack of a maintenance plan for access to Lot 2 (Coopers Lane West) which is wholly Rights of Way through private properties. Road maintenance is ad hoc and relies on voluntary financial contributions by disparate groups of landholders. There are no legal obligations on any party to maintain any portion of the route on which fire-fighters or other emergency services access Lot 2.
49. The PBP offers good advice at PDF page 34: "For internal roads, at least one alternative access road needs to be provided for individual dwellings or groups of dwellings more than 200 metres from a public through road. The routes of these roads should be selected to ensure that both roads are unlikely to be simultaneously cut by a fire". In the case of Lot 2, distance to a public through road is well over 200m and probably over 1km. As outlined in my point 42, the only alternative route is steeper than the Lot 2's RoW and suffers the same defects (narrow, steep, forested) plus that of gates in two locations sometimes being locked. Fire could easily engulf the whole hill, ie both access routes.

In addition, the cumulative impact of doubling the number of houses on the hill has to be considered as it will double the potential for fire-fighting and other emergency vehicles to be confronted with traffic panicking in the opposite direction.

50. At the PBP's PDF page 42, the third paragraph in Background to section 4.3.5 says: "Proposals to reduce APZ requirements or utilise adjoining lands need to consider the advice on exceptional circumstances in section 3.3". At section 3.3 *Exceptional circumstances for APZs*, the PBP discusses in section (b) *APZs on adjoining lands*: "Neither the RFS nor a council has the power to impose an APZ on an adjoining landowner. It is the developer's responsibility to negotiate with adjoining land owner/s as part of the development application process". No negotiations have taken place, despite the APZ proposed for the Dual Occupancy building extending onto my property. I give no permission for it to.
51. That section 3.3 of the PBP also says "Reduced APZs and the use of adjoining lands for meeting APZ requirements will only be permitted in exceptional circumstances based on the merits of the particular development". This proposal has no special merits. The 50m APZ proposed in the DA can only be provided by relocating the Dual Occupancy building.

52. Page 43 of the PBP provides a Table against which proposals such as within this DA can be considered.

In relation to the first row of that table, an APZ cannot be achieved for the Dual Occupancy building for reasons outlined at various points above including (i) that a 50m distance is not available westwards on Lot 2, and (ii) the assessment underestimates that distance at 50m because it ignores steep forested terrain north-west from the building. The APZ has not been determined in accordance with chapter 2 of the PBP. It is likely to have to be well more than 50m in the north-west direction.

In relation to the second row of that table, the Dual Occupancy building is not designed nor sited to minimise the risk of bush fire attack. If the building were sited with the principles in section 4.3.5 of the PBP, it would not be located where the DA proposes. This is yet another reason why bushfire matters should be re-examined, by a qualified and competent expert preferably independent as should be the case through the RFS.

In relation to the fourth row of that table, bush fire assessment in this DA for the proposed Dual Occupancy building does not satisfy the intent and performance criteria for access roads as required under sections 4.1.3 and 4.2.7 of the PBP. Section 4.2.7 calls up Appendix 2 of the PBP which requires at clause A2.3(a)(i) identification of all vegetation in all directions from the site for a distance of 140 metres. This has not been done.

In relation to the sixth row of that table, on landscaping, Appendix 5 of the PBP states:

Experience from the Canberra 2003 fires suggests that house losses are greatest in the area up to 250 metres from the bush interface. Distances of less than 100 metres are particularly vulnerable to flame contact, radiant heat and ember attack. Hence it is within this distance that efforts should be made to prepare for the onslaught of major bush fire events.

Distances of 100m from the proposed Dual Occupancy run onto neighbouring properties especially in downhill directions. Areas to the west are steep, forested and inaccessible.

53. At section 4.3.6a) the PBP deals specifically with *Dual occupancy* saying:

In general, dual occupancy should be discouraged in isolated locations with poor access and inadequate water.

Where the erection of a dual occupancy is proposed, it is assumed that the proposal will be subdivided and as such will be assessed as if submitted under section 100B of the RF Act for a BFSAs.

The Dual Occupancy proposal in this DA should be discouraged if not rejected. If it is not, then it should at least be assessed "as if submitted under section 100B of the RF Act for a Bush Fire Safety Authority" (BSFA; see Appendix 1 of the PBP).

54. At PDF page 50 of 131 of the DA itself, section 3.8 claims no impact on scenic quality. As I explain at my points 8f and 25, scenic quality from the west is destroyed by the proposed Dual Occupancy building, which should be relocated northwards.

No screening is proposed, or possible, because of slope and because the proposed APZ must be free of tall trees. As outlined at my point 10 above, a tree at the edge of the proposed 50m western APZ would have to be 9m taller than the building to screen it because the gradient of the line of sight from my approved dwelling to the proposed Dual Occupancy is 1 in 5.5 or 10°.

Section 3.8 claims "screen plantings undertaken will minimise this overlooking within a few years". What screen plantings? ... in this APZ? If this building is to remain in its current location, Consent Conditions are required and a substantial bond held until significant trees gain the height needed (roof height plus 9m) to screen the building. An alternative is to relocate the building northwards, out of the line of sight.

55. At PDF page 50 of 131 of the DA, section 3.11 claims that the proposal is in "an area experiencing similar infill development". This is wrong, as I explain at my points 25, 27: (i) there are no Dual Occupancies or second dwellings of any kind approved on this hill; (ii) this DA proposes 7-bedroom accommodation on one of the smallest Lots on the hill, and (iii) it is not low density nor comparable or compatible with development here.

These proposals constitute a precedent for similar development on neighbouring Lots, of which there are about a dozen. Doubling the number of dwellings on all these properties will produce a nightmare of road, fire and other safety issues plus conflicts similar to the one I have experienced with the poor siting of the proposed Dual Occupancy building.

The cumulative impacts of that density should be considered before this DA is.

56. The DA claims in section 3.11 that "all development mirrors that of adjacent approved development". This is false and yet another example of complete fabrications in this DA.
57. Likewise, the claims in section 4.2 on Parking and Access are false. There are three access points. They are blind and require reversing out onto the shared *banana road* at a steep and narrow pinch-point known as the S-bend.
58. Likewise, claims in section 4.3 on Traffic are false and understated. The DA proposes an increase from 2-bedroom accommodation to 7- on this property. An increase of 3.5 fold cannot be called "no appreciable increase". The road is not "well designed" and cannot handle this increase, let alone the increase that would occur if all properties had 3.5-fold increase in accommodation. What a white-wash!
59. The on-site sewer design report is defective in that it fails to design for the 5-bedroom (7.5 residents) in the main house. At PDF pages 58 and 74 of 131 the report proposes a self-assigned concession on Nitrogen balance, dropping it from 5-bedroom down to 2-. The disposal area thus proposed is less than half what it should be. My attached OSM spreadsheet model shows the correct calculation.

No basis for this concession is explained nor is it proposed as a request, which would expose the fact of inadequacy of the property to support the infrastructure required.

Correct inclusion of Nitrogen in the Council's own model calculations yields an ETA bed configuration of 6 beds, 18.5m by 2m. This area is 2.7 times more than proposed in the DA (3 beds of 13.8m). The correct area could also be configured as 8 beds of 13.8m, if width is limited at the site. This will however take ring the disposal area closer to the 12m buffer required to the downhill boundary.

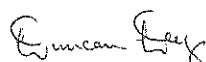
Further concession is sought surreptitiously for the main dwelling by claiming a 5m depth to water table / bedrock. This claim is not made for the Dual Occupancy despite it being in the same soil type. This concession for expediency should likewise be rejected.

When effluent disposal areas are too small as proposed in this DA, nutrients such as Nitrogen and Phosphorus leach into the broader environment and pollute waterways. Here they would leach over the downhill boundary onto Lot 1. The s68 Application for this OSM proposal should be rejected and a new design submitted.

The DA should then be corrected and re-exhibited, so that the public sees:

- (i) that Council takes leaching of nutrients into the environment and over neighbours' boundaries seriously; and
 - (ii) so that the public can see whether this overdevelopment can fit on this small Lot.
60. The stormwater trench proposed in the DA (sketched on PDF page 127) is located in the middle of dam about 3m deep. This is impossible and again illustrates the need to reject this DA and ask for one prepared competently.
 61. I object to the additions proposed for the Dual Occupancy building. Doors and verandas as proposed on the south and west sides of the building would offend my privacy and ruin my view even more than what is there now. If the building is approved in the proposed location, those extra features should not be permitted.

Yours faithfully,



attached: OSM model spreadsheet; photo of site of proposed Dual Occupancy

(DD:DD to BSC re DA378, page 12)

Byron OSMS Design Model

Version: BSC OSMS design 5 brm.xls

STEP 1: # bedrooms (Grp 1) = 5

STEP 2: # bedrooms (Grp 1) = 5

STEP 3: Buffer to permanent water = 10900, Buffer to intermittent water = 100

STEP 4: Block size (m2) = 10900

STEP 5: Daily effluent flow accord. water supply type: Recirculated supply (bore, spring, creek) 180L/p/d, Recirculated + std. water saving devices 145L/p/d, Roof water harvesting 140L/p/d, Roof water harvesting + std. water sav. 115L/p/d

STEP 6: Toilet, Bathroom, Laundry, Kitchen, Wastewater stream

STEP 7: Treatment system: Septic + single pass sandfilter (SPF), Septic + SPF, 25% septic return flow, Septic + recirculating sandfilter

STEP 8: P soil sorption accord. soil type: Alluvial Soils 1 (60 mu myte) 10000 kg/ha/m, Alluvial Soils 2 (cr) 2000 kg/ha/m, Red Basaltic Soils (bg, ca, co, re, ve, m, b, ro, wo) 10000 kg/ha/m, Duplex Soils (ba, bi, bu, m, n) 8000 kg/ha/m, Podzol Soils (ab, bo, br, bh, k, ka, og, ps, by, wv) 1000 kg/ha/m

STEP 9: Soil texture & structure beneath system: Gravels, Sands, Ksat > 3.0m/d, Sandy loams - weakly structured, Sandy loams - massive, Loams - high/moderate structured, Loams - weakly structured or massive, Clay loams - high/mod structured, Clay loams - weakly structured, Clay loams - massive structured, Light clays - strongly structured, Light clays - moderately structured, Light clays - weak structured or massive, Med. to heavy clays - strong struct., Med. to heavy clays - mod structured, Med. to heavy clays - weak struct. or massive, DISPERSIVE soil (Modified Emerson Aggregate test)

STEP 10: Nitrogen Report: N plant uptake (kg/yr) 5.96, N load exceedance 0.00, N load percolated (kg/yr) 6.64, N released (per+ exceed) (kg/yr) 6.64, Enviro. N limit (kg/yr) 6.64

STEP 11: Wetted depth(m) 0.50, TN % removal 50.0%, Reed bed area (m2) 17.0, BOD target of 20mg/L is equiv. to ~68.0% TN, Current Inlet BOD conc. ~ 250 mg/L

STEP 12: % Effective Rainfall: Mounded bed, Level bed with grass

STEP 13: Avail. Water Capacity (AWC) of root zone 0.13, Default AWC of blue metal in trench below root zone 0.00

STEP 14: Calculate for Chit-q: Lateral seepage width (m) 0.300

STEP 15: Trench under root zone, ETA trench separation

STEP 16: Minimum effluent application (mm/day/m2) 2.89

PS lack of Council response to my complaint 30.2106.6435.1 of 16 August 2016 allowed construction to continue uninterrupted to completion. Here is the status of the proposed Dual Occupancy building on 7 September 2016:



Scott, Noreen

From: Cameron Bell <notguilty@universallaw.com.au>
Sent: Sunday, 26 August 2018 9:11 PM
To: council
Subject: DA 384/2018

RE: Objection in respect of DA 384/2018 183 Coopers West Lane, Main Arm

Submission by: Cameron Bell
137 Coopers Lane, Main Arm

I am grateful for the opportunity to submit an objection in respect of DA 384/2018. I have only just been made aware of this development application by other concerned residents in our vicinity. I note the application documents submitted by Mr Lonergan, Town Planner, being 131 pages in length. Given the direct and significantly detrimental impact of this DA on myself and neighbours, it is imperative that Council be fully appraised of the objections and concerns. In the space of a few hours, I am unable to assess and comment fully on the application, **and seek an extension of 14 days** in order to properly do so. However, my preliminary concerns are set out below.

Interest in the DA:

Since 2002, I have been the owner and resident of 137 Coopers Lane (Lot 4 DP 540003). My property is a 20 acres freehold title property on the corner of Coopers West Lane and Coopers South Lane.

My northern boundary (approximately 500m) runs along Coopers West Lane, a single lane unsealed gravel road that is not suitable for the traffic flow envisaged by the DA.

In particular, my residence, property and that of my neighbours have been directly and severely impacted by increasing traffic flow over recent years as a result of increased population and developments in the upper areas of Coopers West Lane. This has caused insurmountable problems with dust affecting the amenity of our residences and, likely, at levels dangerous to the health of residents. The dust levels, I am also advised, have a direct detrimental effect on the values of our properties.

Other impacts and issues with the traffic along Coopers West Lane are set out below.

Objections to DA:

I note the following:

1. The development is in an area zoned RU1. Notably, there is nothing in the application submitted by Mr Lonergan that suggests the development in any way complies with the statutory objectives for RU1 Rural Landscape Zone, or any enhancement of the land and area through the proposed development that is consistent with those statutory objectives.
2. Rather, the application submitted to Council intentionally understates the significant impact on the area, in particular as follows:
 - a. The development is for the purposes of increasing the population of, the use of and the frequenting of, a fragile area without the facilities, infrastructure or capacity for such population and use;
 - b. The DA is incorrect and misleading particularly in reference to the impact and generation of traffic. The impact of additional traffic due to the unauthorised development already undertaken on the subject property, and by way of a pattern of other unauthorised developments in the area, have had a direct impact on a number of residences and the roads in the area, as follows:
 - i. There has been a significant increase in traffic along Coopers Lane and Coopers West Lane over recent years. Coopers Lane is a single lane rural bitumen road

subject to prevalent and more regular deterioration through the increased impact of traffic in the area.

- ii. Coopers West Lane is a single lane unsealed road, the increased use of which has led to insurmountable problems for local residents as follows:
 1. The creation of dust impacting all adjoining properties;
 2. The prevalence of vehicles travelling at excessive and dangerous speeds along Coopers West Lane which not only contributes to the problem of dangerous dust levels but also has led to:
 - a. near accidents with the vehicles of local residents;
 - b. near accidents with local children who use the roads;
 - c. near accidents with livestock;
 - d. increased incidents of the death of native wildlife through impacts with motor vehicles along Coopers Lane and Coopers West Lane.
 3. The writer and others in the area have also been subjected to threats and abuse from road users along Coopers West Lane when requesting they slow down to prevent dust and other issues.
3. That the DA is in respect of structures recently constructed without any appropriate development application and in contravention of the Environmental Protection and Assessment Act. Subsequently, I understand that a demolition order was imposed by Council that has not been complied with.
4. The applicants purchased the property in full awareness of the current demolition order.
5. The developments are in an environmentally sensitive area and the development has already significantly impacted on the area through the unapproved felling of, or interference with, trees and bushland.
6. As a former member and office bearer of the Main Arm Rural Fire Service, I am aware of the extreme sensitivity to bush fires in the area of the subject application, and note that there have been several fires in the vicinity over recent years at residences on Coopers West Lane that have fortunately been brought under control without spreading to neighbouring properties. However, I also note that the Asset Protection Zone (APZ) necessary for the subject DA requires an area in excess of that available on the property, and the concern of direct neighbours who would be impacted by the APZ.
7. I submit that, having regard to the development standards for RU1 Rural Landscape Zone pursuant to the provisions of Byron Shire L.E.P 2014 and s.4.15 of the Environmental Planning and Assessment Act:
 - a. the proposed development cannot be supported as it is inconsistent with the relevant plans and policies that apply to agricultural areas zoned RU1;
 - b. it would undermine the relevant rural planning provisions for the area and create an undesirable precedent under the Byron Shire L.E.P;
 - c. the impact on the area is certainly not complying and innocuous, and entails significant public interest concerns give the lack of amenity in the area and impacts of such development initially through unauthorised means.

Cameron Bell
Accredited Specialist Criminal Law
Universal Law



Universal Law
Cameron Bell & Associates
Solicitors & Barristers



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GM Project Development and Management

27 August 2018

The General Manager
Byron Shire Council
PO Box 219
Mullumbimby 2482

Dear Sir

Objection to DA 2018.384 – 183 Coopers Lane West Main Arm.

GM Project Development and Management has been engaged to prepare and lodge an objection to the above DA. I have perused the documentation submitted as part of the DA package.

This objection is based on a number of grounds as follows.

Illegal Building

The previous owner of 183 Coopers Lane West (Lot 2 DP 445771) had been told to stop work (twice??) on the construction of the building that is the subject of the detached dual occupancy component of the DA. Yet the owner did not stop but continued to construct the building, that consequently has had no Planning Approval, no Council inspections and no sign off by Council.

Council cannot accept a DA for a use of the building that Council knows is illegal. If the subject DA is approved, Council is formalising the illegal structure without any 'pre DA' to legalise it. At the very least Council cannot accept the subject DA for the use of an illegal structure but instead must refuse the DA and request an application for the 'formalisation' of the illegal structure via a Building Certificate application or similar before the subject DA is accepted and assessed.

Consideration of the current DA

The Application is accompanied by a paucity of information and provides 'minimalist' comments throughout reflecting the lack of analysis to demonstrate compliance with the applicable LEP Clauses or the DCP's relevant requirements.

I note that Council's Development Application form indicates a SEE must provide the following information ie

- environmental impact of development;

43 Beaumont Drive Lismore NSW 2480
PHONE: 02-6622.1749 MOB: 0428-221749
EMAIL: graham@gmproject.com.au ABN 59047646649

- how the environmental impacts of the development have been identified;
- the steps to be taken to protect the environment or lessen the expected harm to the environment.

In essence the DA fails to supply items required by Council's DA Form or Council's Statement of Environmental Effects Form and fails to demonstrate in word or plan the impacts of the development.

In any assessment, Council must not be limited in its assessment to the facts of the particular DA but must have regard to relevant:

- Objects of the EPA Act;
- Aims of the LEP;
- Objectives of the Zone; and
- Planning Principles

Objects of EPA Act

The relevant objects of this Act are:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

(my underlining)

Aim of the LEP

The relevant Aim of the LEP is:

to minimise conflict between land uses within a zone and adjoining zones and ensure minimal impact of development on the amenity of adjoining and nearby land uses.

(my underlining)

Objectives of the Zone

The DA correctly identifies the proposal is in the RU1 Zone but assesses the proposal in terms of the RU2 Zone's objectives – a clear example of the superficial nature of the DA! This error in itself should be sufficient for Council to refuse the DA as it is based on a false underlying analysis.

The relevant objective of the RUI Zone is:

To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality (my underlining)

Comment: There has been no analysis of the impact on the scenic quality other than statements such as 'it is located well below the southern dominant ridgeline and will not be visible from the public road' and 'the visual isolation of the existing building on cleared land...ensures that it blends into the rural character of the area.'

A more rigorous analysis needs to be undertaken re scenic amenity.

Further, the site access (Coopers Lane West) is a narrow rural road in a small rural neighbourhood. All on private built property and no maintenance plan

The proposal fails to demonstrate compliance with the relevant Object of the EPA Act, Aim of the LEP especially having regard to the adverse impact on residential amenity and RFS related access issues.

In addition, merely because a land use is permitted with Council Consent in a zone (ie dual occupancy in the RUI Zone) does not make it a *compatible land use* as per the Zone Objective. The lack of information submitted with the DA does not attempt to justify any compatibility.

Planning for Bushfire Protection 2006 ('PBP')

This document is very specific about the requirements for dual occupancies in rural areas.

Page 45 of PBP clearly states:

In general, dual occupancy should be discouraged in isolated locations with poor access and inadequate water... Where the erection of a dual occupancy is proposed, it is assumed that the proposal will be subdivided and as such will be assessed as if submitted under section 100B of the RF Act for a BFSAs.

In terms of access, PBP (p22) requires:

all roads are through roads. Dead end roads are not recommended, but if unavoidable, dead ends are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end and direct traffic away from the hazard. (my underlining)

Comment: Coopers Lane West is long with inadequate passing bays and no turning circle. Coopers Lane West is not within a road reserve but is on private land without any agreement by the various land owners to maintain the road.

PBP (p13) suggests this application should be refused as;

There may be situations where a combination of poor access, rugged topography, remote location and an inability to provide an adequate APZ would pose an unacceptable bush fire risk, even if the building was constructed in accordance with the strictest construction standards. In these cases, there is a strong argument for refusal of the development application.
(my underlining)

Comment: The property's isolation, the rugged topography of the area and the poor access indicates this DA must be refused. The proposal will pose an unacceptable bushfire risk for owners, occupants and fire fighters.

PBP (p13) further indicates

Neither the RFS nor a council has the power to impose an APZ on an adjoining landowner. Details of the proposed easement and the adjoining owners consent should be submitted with the development application.

Comment: The DA states that a 40m APZ is required to the west (and a 50m APZ exists to the west) - a substantial distance of this APZ is on the neighbouring property and no approach has been made to the land owner. The proposal cannot comply with the APZ and this alone should be reason for refusal.

PBP (p16) states:

The major issues for isolated rural developments arise from the need to protect firefighters as well as residents in less accessible areas. As a result greater emphasis is placed on:

- the provision of safe access/egress to the property so occupants leaving, and firefighters/rescuers accessing the property, can do so in relative safety;*
- the provision of adequate APZs to create an area where occupants and firefighters remaining on site will have a good chance of survival; and*
- water supplies and fire protection systems such as spray systems. In such cases dedicated water supplies may exceed standard requirements.*

Comment: This proposal **cannot** ensure safety of fire fighters or occupants. As stated previously Coopers Lane West is long with inadequate passing bays and no turning circle. Coopers Lane West is not within a road reserve but is on private land without any agreement by the various land owners to maintain the road.

The RFS Requirements for access roads is illustrated below.

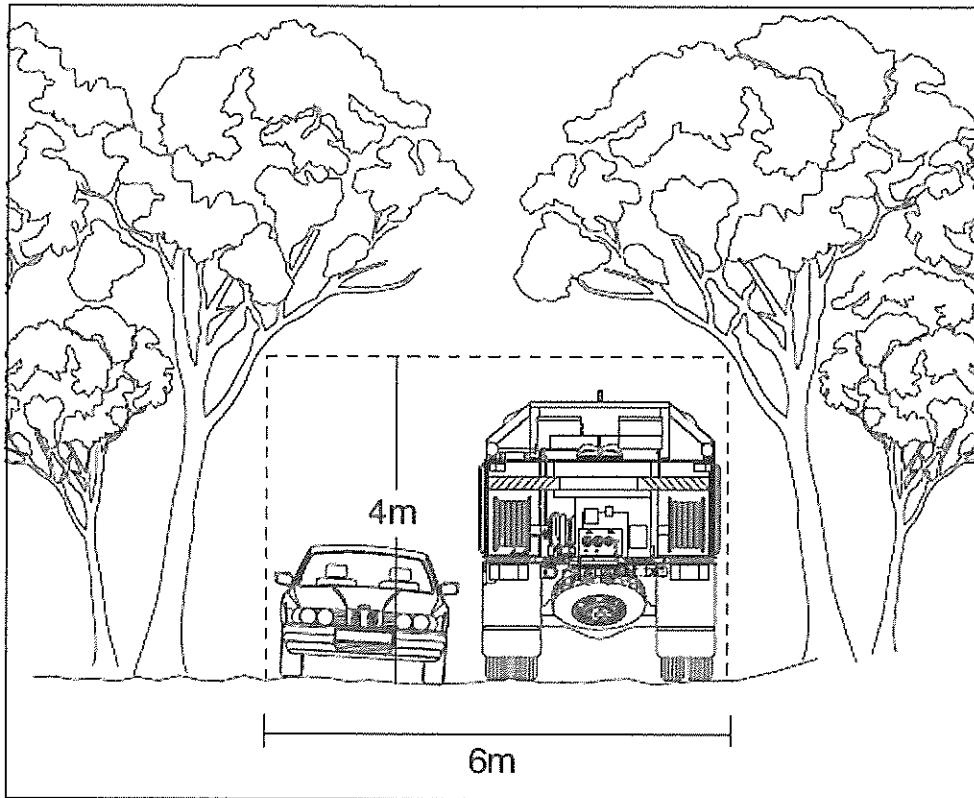


Figure 4.5 Property access road requirements (rural areas)

Comment: Coopers Lane West **does not comply** with this requirement. It is a narrow road, has no passing bays, no turning circle and is located on private property with no maintenance agreement by the landowners through whose property it traverses.

Conclusion

The application does not:

- provide sufficient information to justify the proposed development;
- quantify compliance with Council's previous Orders to stop building;
- assess the application against the correct zone objectives;
- fully explore the impact on scenic amenity;
- appropriately examine the development with respect to RFS requirements; and
- justify compliance with Council's building requirements.

The proposal does not:

- Satisfy the relevant Object of the EPA Act; and
- Fulfil with the relevant Aim of the LEP;
- Comply with the relevant Objective of the RU1 Zone; and
- Conform to the requirements of the RFS.

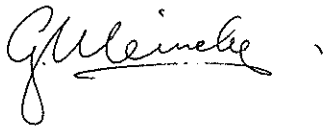
Thus Council cannot:

- approve a use in an illegal building that was previously subject to Orders to stop building;
- support a building in an area that does not comply with the relevant RFS requirements;
- assess the application without full and correct justification being submitted;

Council is thus respectfully requested to **REFUSE** the subject DA for a detached dual occupancy, expanded dwelling and tree removal on the property known as 183 Cooper Lane West.

Thank you for considering this submission and should you wish to discuss this matter please contact me.

Yours sincerely



Graham Meineke



DA Submissions Report - Advertising LV2
Close Date from 11/08/2018 to 1/09/2018

DA Number: 10.2018.384.1
 Submission Method: ESERVICES

Include Applicant: Yes
 Include Parcels: Yes

<u>DA / Submission Type / Number</u>	<u>Date</u>	<u>DA Description / Categories</u>
10.2018.384.1		Use of existing structure as a Dwelling House and Alterations and
Parcel LOT / DP		Property Address
181870 LOT: 2 DP: 445771		183 Coopers West LN MAIN ARM
OPPOSE		
30.2018.13152.1	26/08/2018	Categories: DA OPPOSE
Submission by: Mr C Bell		Submission Method: ESERVICES

10.2018.384.1

Parcel LOT / DP

181870 LOT: 2 DP: 445771

Use of existing structure as a Dwelling House and Alterations and

Property Address

183 Coopers West LN MAIN ARM

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2. Rather, the application submitted to Council intentionally understates the significant impact on the area, in particular as follows:
 - a. The development is for the purposes of increasing the population of, the use of and the frequenting of, a fragile area without the facilities, infrastructure or capacity for such population and use;
 - b. The DA is incorrect and misleading particularly in reference to the impact and generation of traffic. The impact of additional traffic due to the unauthorised development already undertaken on the subject property, and by way of a pattern of other unauthorised developments in the area, have had a direct impact on a number of residences and the roads in the area, as follows:
 - i. There has been a significant increase in traffic along Coopers Lane and Coopers West Lane over recent years. Coopers Lane is a single lane rural bitumen road subject to prevalent and more regular deterioration through the increased impact of traffic in the area.
 - ii. Coopers West Lane is a single lane unsealed road, the increased use of which has led to insurmountable problems for local residents as follows:
 1. The creation of dust impacting all adjoining properties;
 2. The prevalence of vehicles travelling at excessive and dangerous speeds along Coopers West Lane which not only contributes to the problem of dangerous dust levels but also has led to:
 - a. near accidents with the vehicles of local residents;
 - b. near accidents with local children who use the roads;
 - c. near accidents with livestock;
 - d. increased incidents of the death of native wildlife through impacts with motor vehicles along Coopers Lane and Coopers West Lane.
 3. The writer and others in the area have also been subjected to threats and abuse from road users along Coopers West Lane when requesting they slow down to prevent dust and other issues.
 3. That the DA is in respect of structures recently constructed without any appropriate development application and in contravention of the Environmental Protection and Assessment Act. Subsequently, I understand that a demolition order was imposed by Council that has not been complied with.
 4. The applicants purchased the property in full awareness of the current demolition order.
 5. The developments are in an environmentally sensitive area and the development has already significantly impacted on the area through the unapproved felling of, or interference with, trees and bushland.
 6. As a former member and office bearer of the Main Arm Rural Fire Service, I am aware of the extreme sensitivity to bush fires in the area of the subject application, and note that there have been several fires in the vicinity over recent years at residences on Coopers West Lane that have fortunately been brought under control without spreading to neighbouring properties. However, I also note that the Asset Protection Zone (APZ) necessary for the subject DA requires an area in excess of that available on the property, and the concern of direct neighbours who would be impacted by the APZ.
 7. I submit that, having regard to the development standards for RU1 Rural Landscape Zone pursuant to the provisions of Byron Shire L.E.P 2014 and s.4.15 of the Environmental Planning and Assessment Act:
 - a. the proposed development cannot be supported as it is inconsistent with the relevant plans and policies that apply to agricultural areas zoned RU1;
 - b. it would undermine the relevant rural planning provisions for the area and create an undesirable precedent under the Byron Shire L.E.P;
 - c. the impact on the area is certainly not complying and innocuous, and entails significant public interest concerns given the lack of amenity in the area and impacts of such development initially through unauthorised means.

DA / Submission Type / Number

Date

DA Description / Categories

10.2018.384.1

Use of existing structure as a Dwelling House and Alterations and

Parcel LOT / DP

Property Address

181870 LOT: 2 DP: 445771

183 Coopers West LN MAIN ARM

30.2018.13193.1 27/08/2018 Categories: DA OPPOSE

Submission Method: ESERVICES

Submission by: Mr E Willis

We have only recently become aware of this DA and wish to register our objection to the proposed development. Further to my comments below I would appreciate an extension to the objections deadline in order to fully digest the documents in order to respond more fully to concerns therein. We are resident in the Karu Kali Multi-Occupancy which is slightly over 200 acres which has been our family home since since 1981. We have multiple concerns around the development is question. The location of the development is directly in an existing wildlife corridor. Our community land which adjoins this site has a pending designation of EC2 in recognition of its high environment value. We are concerned that the proposed development will negatively impact on the habitat, feeding activities and movement of fragile native wildlife species. The developments are in an environmentally sensitive area which is also has high sensitivity to bush fires. As a current member of the Main Arm Rural Fire Service I am concerned that clearing a protection zone around the dwelling will not be possible. Access is via the unsealed road which runs through our property. We are concerned about the impacts that additional residences represent for road usage. The increased traffic represents a danger to our children when they play outside or when they travel to and from school. Furthermore one of our household has an intellectual disability but routinely walks the road as part of his daily exercise and would be placed in greater jeopardy by increased road traffic. We frequently see cars travelling in excess of 60 Km/h which endangers our children, family, pets and livestock. Additionally, is the issue of the dust which is generated from the road (particularly when vehicles travel at speed) which has significant health impacts for Jane Shand who has COPD. There exists a significant number of illegal second dwellings in this valley at present. We also raise objection on the basis we do not wish to see a precedent set that could form an undesirable precedent under the Byron Shire L.E.P. undermining the relevant rural planning provisions for the area.

Total: 2 OPPOSE submissions for DA 10.2018.384.1

***** End of Submissions for DA 10.2018.384.1 *****