

22 Nov 2019

General Manager

Byron Shire Council

Mullumbimby, NSW 2482

Emailed to: submissions@byron.nsw.gov.au

Attn: Mr Steve Daniels

Planning Proposal for Byron LEP Amendment – Minimum Lot Size LRMD Housing

The past year in the Byron shire has been notable for its intense focus on planning strategy, much of this driven by NSW DPE. The work has involved the development of several strategies which are intended to guide development, with character being a major consideration. This emphasis is reflected in the Residential Strategy and associated Local Character Narratives, the Business and Industrial Lands Strategy and the Bangalow Village Plan. A Community Participation Plan further strengthens the character proposition by formalising community engagement guidelines for various DA categories. These initiatives have been welcomed by the community because they lead to better development outcomes, essential for a heritage village such as Bangalow where the preservation of heritage character is paramount.

- We support the basic aims of the Planning Proposal to introduce tighter definition of dwelling types and to align minimum lot sizes with those specified in Byron LEP 2014. However, we remain very concerned that the introduction of the Low Rise Medium Density Housing SEPP code could create serious collateral issues:
- The need to respect character is especially relevant for Bangalow where the character narrative has been derived from the formally adopted Bangalow Village Plan. The BVP vision statement positions Bangalow as a place “nestled in the hills, surrounded by natural beauty and rich in ecological biodiversity.” This combination of scenic surrounding landscape with a well-preserved heritage village is possibly unique in NSW and its importance to the Bangalow community cannot be overstated.
- The character proposition is well understood within BSC but there is no guarantee that private certifiers will step up to this agenda despite the availability of strategic planning documents. The best guiding statements are often buried within large documents, e.g. Residential Strategy, Bangalow Key Planning Initiative Ba6, “ensure that new developments build on existing residential character and promote a sense of community”.

BANGALOW PROGRESS ASSOCIATION

- Development notification protocols should consider relevant aspects of the BSC Community Participation Plan. When BSC is removed as the regulating authority, a community engagement framework is still needed to avoid disaster scenarios that inevitably occur with unregulated development and private certification. Character compatibility is generally not considered a priority by developers.
- The potential introduction of the LRMD SEPP emphasises the need for BSC to produce published versions of planning strategies. For Bangalow, it also reinforces the urgency of updating DCP 2014 Sect E2.3 and doing a structure plan for the Station St Triangle. Completing these tasks will provide clear and concise guidelines to developers.

Strategic planning activity within BSC has generally embraced the principles of ecologically sustainable development and place based planning. This serves our community well as these concepts are central to the ongoing economic viability of Bangalow. The Low Rise Medium Density SEPP is not consistent with the current direction of strategic planning and community engagement because it allows a certification pathway whereby character considerations can be overwhelmed by other business priorities and become a meaningless box ticking exercise.

We appreciate the attention of Council and BSC staff on this matter and thank them for their ongoing support.

Signed



Ian Holmes
President, Bangalow Progress Association
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COMMUNITY
ALLIANCE for
BYRON SHIRE

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General Manager
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22nd November 2019

CABS Submission : **Planning Proposal for Amendment of the Byron Local Environmental Plan 2014 to introduce minimum lot size controls for 'manor house' and 'multi dwelling housing (terraces)'**

The NSW State Government has introduced a number of planning policies that are being applied across the state and will impact on the strategic planning of local government.

The LRMD Code was developed to provide more housing choice and greater affordability by introducing requirements for higher density development in urban areas, particularly in the form of 'manor' houses and 'terrace' style developments.

CABS believes that the implementation of the LRMD Code may have considerable impact on Byron Shire's urban residential areas and requires further explanation and public information regarding how the code would translate and impact on Byron Shire towns and villages.

CABS believes

1. That Council should defer adopting the LRMD Planning Proposal changes and provide more detailed information to the community about the potential impacts by way of information sheets and or articles for publication in local media
2. that council has sought to reduce the impact of LRMD by increasing the lot size requirements and permissibility for the identified uses eg. Manor and terrace housing but has concerns that the LRMD code will negate neighbour notification about the changes, by way of the proposed developments being under Complying Development and this presents concerns in light of the higher densities permissibility in residential zones and the lack of clarity and determination of character and design guidelines and the potential for impacts such as overshadowing of existing development
3. that council should wait for the adoption of the Local Character Statements for urban areas as per the Byron Shire Residential Strategy and then determine if there are 'Special Areas' that need to be mapped for exclusion from the application of the LRMD

4. that it's not clear if council is adopting the Design Guide or whether an amendment to the DCP will be undertaken, it could be that additional controls may further refine design guidelines to ensure that impacts on adjoining properties are reduced (PS 18-007 – LRMD Design Guide for Development Applications)
5. that the proposal fails to anticipate the impact of the LRMD and other proposals such as Affordable Housing SEPP and STRA and more detailed analysis of impact is required in terms of bulk and scale and the impacts on character and infrastructure, including water supply, sewerage management, stormwater and the road network, including parking provisions to service existing commercial centres
6. the proposal must specifically identify Heritage Conservation Areas as being exempt from the application of the LRMD Code
7. the proposal may have an adverse effect of reducing the supply of single housing stock that provides much needed housing for families. It's clear that the code allows higher densities for areas subjected to planning current requirements that limit the density of developments
8. the LRMD Code will act as an incentive for increased development on single lots and also encourage the amalgamation of lots for more intensive density development

Background

The LRMD was primarily developed to address housing choices in Sydney and metropolitan areas and increase the density within footprints that are well serviced by public transport and have supply of water and sewerage undertaken by Sydney Water rather than by local government.

"The aim is to make approvals for these housing types faster and more straightforward, providing greater housing choice and supply."

Byron Shire is in an uncertain position to accept increased density and the associated impacts.

It appears that there hasn't been an analysis of the impact of the code on infrastructure demand and if the impacts of the increased densities can be met by current or planned future infrastructure.

Byron Shire undertook major upgrades of sewerage treatment plants in the Shire in late 1990's and in early to mid 2000's built new plants for the areas of Byron Bay/Sunrise/ Suffolk Park, Bangalow and Mullumbimby / Brunswick.

The capacity design planning for STP's was determined by the settlement strategies which focussed on 'infill' which involved the intensification of density in urban areas which included the opportunities for dual occupancies, secondary dwellings and medium density. The Settlement Strategies were developed to meet population growth for 25 years.

Byron Shire's road network is under extreme pressure and it's clear that increased densities in urban areas will add further pressure on the roads. A major factor impacting on the roads is visitor impact from tourism, including Airbnb in residential areas. The LRMD and

Affordable Housing SEPP assume for higher density residential living the access to efficient public transport.

The Settlement Strategies outcomes for future planning potential was done in accordance with informed community consultation over a period time that included scenarios for the community to respond to and a detailed constraint assessment planning process.

The LRMD Code doesn't apply to non-sewered areas, but CABS believes there are concerns related to the application of this code within sewered areas. The overall impacts of the code are compounded by other state planning processes including Affordable Housing SEPP and the wide spread use of residential dwellings for tourism use by way of STRA (Airbnb).

In regard to the increased density impact on sewerage management, it's the responsibility of Council to ensure that infrastructure is available to service future growth proposed in planning instruments and it appears the analysis has not been undertaken to ensure this is possible.

The LRMD PP identifies that infrastructure analysis was undertaken for the Byron Shire Residential Strategy, but it was not included and can only be assumed that it has not been undertaken.

The idea that future growth will be accommodated by upgrades to existing STPs is not a matter that should be assumed as some towns and villages may not be able to increase the capacity of the plant due to the constraints of waterways, including Marine Park as receiving environments and this vital issue should be considered prior to adoption of the inclusion of LRMD Code for Byron Shire.

Yours sincerely
Angela Dunlop
On behalf of CABS

JAN BARHAM

PO Box 561, Byron Bay 2481 janbarham@bigpond.com

To: Byron Shire Council

By email

November 2019

SUBMISSION : Low Rise Medium Density Housing Code

I oppose the planning proposal to allow intensified development (manor houses and multi dwelling (terrace) housing in existing residential areas.

I believe the proposed changes will impact on the existing character of Byron Shire localities and will also create additional pressure on infrastructure and that there is no certainty that it can be accommodated.

Byron Shire Council should seek exemption from the LRMD Code and consider other State Planning policies that are impacting on the ability for BSC to responsibly meet the demands of growth and the infrastructure and character impacts of the changes

Why should a place and community wear the impacts of unsustainable growth being foisted upon them.

I believe Byron Shire Council should be presenting a case to the NSW Government that Byron Shire must be exempt from some of the State based intensified development planning proposals that have been formulated including the Affordable Housing SEPP and STRA.

The doubt about the ability to meet additional growth impacts is a compelling reason for opposing the proposed planning changes. Without certainty that infrastructure can meet the demands of growth it should not be supported. I've been unable to locate information / evidence that an analysis of the impact of these changes can be sustainably managed by BSC. It's of great concern and therefore forms the basis of my opposition to these changes.

The "Independent Review Report of the Low Rise Medium Density Housing Code" by Professor Roberta Ryan and Neil Selmon, from the University of Technology, Sydney, July 2019, identified in it's recommendations that

14. Land within the Sydney Drinking Water Catchment that is sewered but has Sydney Catchment Authority licensing limitations on the number of Equivalent Tenements that may be discharged as treated water into the system, and where that system is close to capacity, should be excluded from the application of the Code.

I believe that this exemption recommendation should also apply to Byron Shire, particularly to the Byron Bay catchment due to the similar constraints on sewerage capacity.

It seems that it's often overlooked that for metropolitan areas, the responsibility to provide sewerage management and infrastructure is not the responsibility of local government. In Sydney, Newcastle and Wollongong, the sewerage responsibility is provided by Sydney Water and there are no constraints to growth placed on councils. The responsibility for the provision of an adequate road network is also an additional burden that regional council's face that metropolitan councils are not required to manage.

In the regions and rural areas, the responsibility for sewer, water and road network infrastructure is with the council.

In the situation for Byron Shire, we have a sensitive environment that has limitations on the capacity to discharge into waterways and as far as I am aware there hasn't been detailed investigations to consider the potential for increased growth.

Byron Shire Sewerage Treatment Plants (STP's) have been designed to meet projected capacity. These design inputs were determined by the 2002 Settlement Strategies and were meant to provide for 25 years of growth.

To allow increased growth without investigation of the ability to manage the pressure it will place on infrastructure does not represent responsible ecologically sustainable development. The principles of ESD require the prior consideration of impacts and place a responsibility on the council to identify if the growth can be managed in accordance with ESD principles.

Byron Shire has a history of the consequences of unplanned growth. In 1997, the sewerage / development moratoriums were placed on Byron Shire due to the unplanned growth that was undertaken without the necessary provision of infrastructure. The outcome of the overloading of the STPs was the pollution of waterways.

It's vital that BSC learns from the past and does not take actions to amend planning instruments to allow additional growth without the provision of infrastructure being considered and the detailed planning required to ensure that any additional growth can be catered for in an ecologically sustainable manner.

Road Network

In relation to the road network, Byron Shire has limitations. Byron Bay is particularly constrained by it's geographic location and the fact that there is essentially only one road in and one road out. Without public transport, there is a car dependence and reliance for rural residents. The application of city based planning rules that rely on public transport for greater density and reduced parking requirements for development cannot be delivered in Byron Shire.

Residents in Byron Shire are car dependent and the concept of higher density living is not in principle opposed, but it should not be undertaken on the basis that adequate public

transport exists and that the elimination of parking requirements and therefore car use can be minimised without the provision of alternate transport options.

Higher density development in residential areas will increase the impact on the road network and lead to congested streets and impact on the broader road network. There has been no analysis of this impact and therefore the changes cannot be supported.

Local Strategic Planning Statements and Local Character Statements.

Without finalisation of Local Character Statements, identified in the Draft Byron Shire Residential Strategy and the development of Local Strategic Planning Statements, it's inadvisable to implement planning changes that will impact on local character. It's important to respect the local character of areas of the shire and the potential for these identified areas to be exempt from the LRMD Code should be considered.

It's also important to acknowledge that the 'asset' that is the attractor for the tourism industry may be impacted on by planning changes and that doesn't meet the ESD planning principles on the grounds of social and economic impact.

Byron Shire – A Special Case

The Byron Shire is a 'special case' in relation to planning. The recognition that the shire represents more than the usual case for housing / residential growth appears to have been overlooked. A key consideration that hasn't been considered by the changes that are being imposed by the State Government is that Byron Shire is both a sensitive environment area and a tourism icon. These points require consideration prior to any moves to change the character and deliver the impacts of increased development.

I believe Byron Shire Council should be presenting a case to the NSW Government that Byron Shire must be exempt from some of the State based intensified development planning proposals that have been formulated including the Affordable Housing SEPP and STRA.

BACKGROUND

Low Rise Medium Density Housing Code SEPP

The LRMD Housing Code has been developed for Sydney and metropolitan areas to increase housing density and provide more diversity in the housing market

The premise of increased density and diversity in non regional areas applies differently and primarily due to the provision of infrastructure, especially potable water supply, sewerage and the road network.

Byron Shire Background

Byron Shire previously considered the carrying capacity of the shire and amended the planning rules to provide for greater density, diversity and supply. The lot sizes have been reduced for dual occupancies and residential flat buildings and now with other impacts such as Affordable Housing SEPP and STRA there are unplanned impacts on infrastructure that haven't been assessed.

Byron Council was an initiator of the secondary dwelling affordable housing model to address the unregulated structures that were providing much needed housing but needed to be brought into compliance and the need for additional affordable housing.

The move to waive developer contributions was also a move to support the development of more affordable housing that provided for a market of singles, older persons, (particularly older women) young people, students and low income workers. To ensure that they were used for this purpose for the intention of affordable housing, conditions of consent were placed on these dwellings identifying that short term rental accommodation was prohibited.

The prohibition of use for short term tourism accommodation was also placed on dwelling approvals in residential areas, as the use is prohibited in the zone.

It appears BSC hasn't been able to regulate this use and it is now a major contributor to the lack of housing affordability and availability. State Governments in the past disallowed BSC attempts to strengthen the LEP to prohibit the use and empower it to take action against the prohibited use.

Byron Shire is now in a crucial situation where unapproved use of residential dwellings for STRA is contributing to the unaffordable and unavailable housing. In Byron Bay there are approximately 22% of entire dwellings being used for the purpose of STRA and this is having considerable impact on infrastructure and the social amenity.

Growth

Byron Shire is a desirable lifestyle and tourism destination. Much of it's appeal is the significant natural environment and the low rise character and bulk and scale of the area. The pressure of increased residential growth coupled with the increasing tourism pressure presents a unique situation for future planning.

The concept that increased density will create greater affordability and availability of housing is not supported.

The cost of housing in Byron Shire is high, due to the area's unique appeal. The 'burden' of tourism impacts must be considered in any growth planning for residential areas. There is little separation of these two aspects of the shire's planning in relation to impacts.

The impact of the LRMD Code would be increased density in existing residential areas. The manor houses and terrace multi dwelling capabilities will be seen as an opportunity for the maximisation of development and will have impacts, primarily on STP's and the road network.

It also must be investigated if there is a sufficient potable water supply to meet the needs of additional growth. We are currently in a dry period and the lack of water supply hasn't impacted on the shire since 2002. In that time there has been additional growth and now

with the proposals for increased population and growth, it is vital for water assessment and availability to be considered.

Also, the Byron STP was developed to accommodate not only the residential, commercial and planned tourism growth but also the day tripper impacts. It appears that those inputs to the STP have been overtaken by planning changes imposed by the State and the ever increasing tourism popularity and resultant impacts.

I'm unable to locate any analysis of the current impacts and any modelling of the impacts of proposed future growth, in relation to the growth identified in the Draft Byron Residential Strategy and the impacts of State imposed planning policies.

I question why council accepted the growth targets identified in the North Coast Regional Plan without any consideration of the infrastructure impacts that Council is the responsible authority to provide eg. Sewerage, water, roads, stormwater.

It's clear that the acceptance of the growth targets in the **NCRP was done without the consideration of consequences is regrettable and should be revisited.**

Byron Shire must present a case for ESD in it's planning instruments and undertake the necessary investigation to assess the case for 'growth' and whether or not Council are able to meet the pressures of growth.

I request that Council not proceed with allowing greater density development in existing residential areas that will impact on its ability to service the growth.

Yours sincerely,

Jan Barham



Mullumbimby Residents Association

November 2019

Submission for Planning Proposal to Introduce Minimum Lot Size Standards For Manor House and Multi Dwelling Housing (Terraces)

1. MINIMUM LOT SIZE: We support the move by Council to have the Low Rise Medium Density SEPP be consistent with the present LEP Clause 4.1E for Minimum Lots Sizes in R2 Zone 1000Sqm and in R3 Zone 800sqm. (The SEPP has minimum lot sizes for Terrace House 400 Sqm and Manor Houses 600 Sqm)

2. FLOOR AREA RATIOS : We also support that Floor Area ratios be consistent with the current provisions in the LEP 2014 .

2. GRADUAL INTRODUCTION: We ask that the Low Rise Medium Density Housing SEPP be introduced with a gradual roll-out to take into account the capacity of present infrastructure to cope with the increase in usage: In Particular ; Sewage Capacity, Drinking Water , Roads , Long Term Car-Parking in the CBD and Recreation facilities.

Dr Sonia Laverty
Mullumbimby Residents Association

Byron Local Environmental Plan 2014

Current version for 31 October 2019 to date (accessed 19 November 2019 at 08:13)

[Part 4 Clause 4.1E](#)

4.1E Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

- (1) The objective of this clause is to achieve planned residential density in certain zones.
- (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if

the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.

Column 1	Column 2	Column 3
Dual occupancy (attached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres
Dual occupancy (attached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU5 Village, Zone R5 Large Lot Residential	4,000 square metres
Dual occupancy (detached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape	4,000 square metres
Dual occupancy (detached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres
Multi dwelling housing	Zone R2 Low Density Residential	1,000 square metres
Multi dwelling housing	Zone R3 Medium Density Residential	800 square metres
Residential flat building	Zone R3 Medium Density Residential	800 square metres



Mullumbimby Residents Association

Submission Low Rise Medium Density Housing SEPP Nov. 2019

The Mullumbimby Residents Association request the issues below be addressed :

- 1. MEDIA NOTIFICATION :** That Council write a full article for both local newspapers outlining the details and changes the SEPP will mean for all the residential areas of the Shire. These changes are very significant and yet very few residents know what is coming.
- 2. MINIMUM LOT SIZE:** We support the move by Council to have the SEPP be consistent with the present LEP provisions regarding floor Area Ratios and Minimum lots sizes at R2 Zone 1000Sqm and R3 Zone 800sqm. (The SEPP has minimum lot sizes for Terrace House 400 Sqm and Manor Houses 600 Sqm)
- 3 .GRADUAL INTRODUCTION:** We ask that the SEPP be introduced with a gradual roll-out to take into account the capacity of present infrastructure to cope with the increase in usage: In Particular , Drinking Water, Sewage Capacity, Roads , Car-Parking and Recreation facilities.
- 4. SPECIAL LOCAL CHARACTER AREAS:** Council is requested by the NSW Planning Department to investigate Special Local Character Areas in the Shire they wish to be exempt from the SEPP Code. These areas are in addition to the Heritage Conservation Areas which are already exempt. These areas need to be mapped and submitted to the Minister by 1 July 2020 for his approval.
- 5. EAST MULLUMBIMBY EXCEMPTION:** We ask that the urban area East of the railway line be explored as an exempted Special Local Character Area and that the residents of this area be consulted in this review .This area has many timber houses built from locally sourced timber with great Heritage Value creating an old- worldly neighbourhood charm.

6. CERTIFIERS: We do not agree that certifiers should be given total approval rights for these developments. These developments will bring major changes to an area and should go through the accepted Council Development Application process.

7. INTERPRETATION OF CHARACTER : Certifiers will be required to consider the Local Character of an Area before determining an approval . However, there is no avenue to review their interpretation by either Council , the Community or the Courts.

8. NO NOTIFICATION : We are concerned that the neighbours will not be notified about any development in their area and will have absolutely no way to object or suggest variations to the plan.

9. REDUCTION OF SINGLE HOUSING STOCK: We are concerned that there will always be more profit from developing multi dwelling occupancy units rather than a single house on a block and therefore this will prejudice this type of development and give the developers free hand to demolish and replace single housing stock.

10. PROTECTING HERITAGE : We are concerned about how this SEPP will apply to the Heritage Conservation Areas in Mullumbimby as the SEPP can apply to this area but via the normal Council DA approval process. We ask that the LEP and DCP for Heritage Areas be updated to state that this type of development is not appropriate in Heritage Conservation Areas of single dwelling houses.

From: [donald.maughan](#)
To: [submissions](#)
Subject: FW: Low Rise Medium Density Housing SEPP submission
Date: Thursday, 28 November 2019 9:51:33 AM
Attachments: [MRA Submission Low Rise Medium Density NSW SEPP \(1\).pdf](#)

Dear Council I apologise for being late in getting this submission into you however on behalf of The suffolk Park Progress Association I lodge this submission relating to low Rise Density Housing SEPP

I also apologise for Plagiarising the comments of the Mullumbimby residents Association however their thoughts echo the concerns and thoughts of the Suffolk Park progress Association see attached

This Proposals SEPP as it stands has the ability to destroy the community structure of the Suffolk Park and with out a community structure our village will be a very sad and lonely place

Donald Maughan

President Suffolk Park Progress Association



Mullumbimby Residents Association

Submission Low Rise Medium Density Housing SEPP Nov. 2019

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