



Manentia Ubicumque

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27 January, 2022

A STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed Two (2) Lot Subdivision.

**Lot 128 DP 1265934,
No 33 Cockatoo Crescent Mullumbimby**



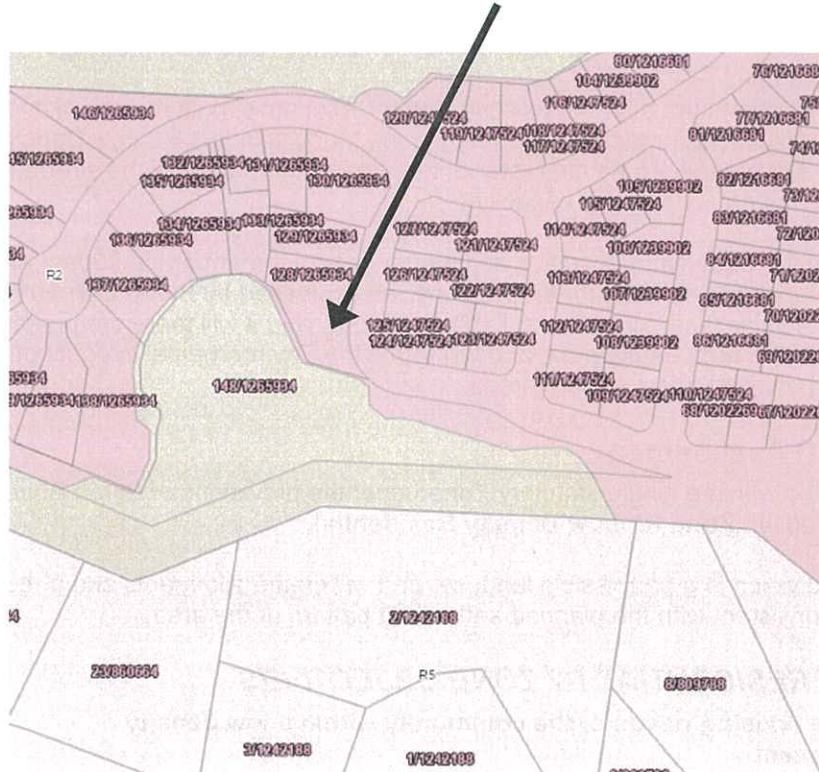
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ANNEXURE

- Plan of proposed Subdivision
- Bushfire Report – Bushfire Certifiers.
- Civic & Stormwater Engineers Design Plans and Reports.



Lot 128 DP 1265934, No 33 Cockatoo Crescent Mullumbimby



Source: Byron LEP 2014.

1. Introduction

This report is prepared for the owners of the subject property and will accompany a Development Application under the provisions of the E.P. & A. Act 1979, to subdivide this residential property by the creation of Two (2) lots within the site.

The property is cleared and serviced land, and no trees need to be removed to achieve the Development proposed.

The annexed Tricend Plans show that access and service provision can be achieved via Councils existing road network and water and sewer reticulation systems.

The annexed Bushfire Report from Bushfire Certifiers shows that the potential dwelling sites on each allotment do not exceed the maximum BAL 29 Exposure as permitted for subdivision development under PBP 2019.

The subject property is Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby which has a site area of 1,500m² as per the Survey, and is zoned R2 Low Density Residential under BLEP 2014.

The proposed Two (2) lot subdivision is to be made up of:

Proposed Lot 1 (980m²) – Vacant Lot (South).

Proposed Lot 2 (520) – Vacant Lot (North).

The two (2) vacant allotments contain cleared building envelopes, with no trees to be removed. These characteristics will ensure the proposed subdivision will maintain the visual amenity of the area.

Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



All of the proposed lots at over 400m², are large enough to accommodate future dwelling development, whilst meeting the required Asset Protection Zones (See Bushfire Report).

The proposed subdivision will not alter the existing natural, economic, cultural, social and scenic amenity of the residential environment beyond that planned for within this R2 Low Density Residential Zoned. As such neither the character of the area or the nature of the surrounding environment will be compromised in any capacity.

Both Lots 1 & 2 meet the underlying objective and statutory requirement of the 400m² Minimum Allotment Size Development Standard for the R2 zone, as expressed by Byron LEP 2014. The design is thus compliant with all LEP and DCP provisions, and it will therefore preserve the Residential amenity of the area as planned, and will retain the Environmental integrity of the area through the retention of all adjacent existing trees.

2. Section 4.15(1) Assessment.

The property is located within a single statutory Zone under the provisions of Byron Shire Local Environmental Plan 2014, **Zone R2 Low Density Residential.**

This Two (2) lot subdivision is a permissible landuse, and will create allotments and a residential settlement pattern consistent with the planned settlement pattern of the area.

2.1 Objectives - RESIDENTIAL R2 ZONE OBJECTIVES

*** To provide for the housing needs of the community within a low density residential environment.**

All of the proposed lots, are to be over 400m², and are thus all large enough to accommodate future dwelling development, particularly as adequate building envelopes are achieved and services and access can easily be achieved to each proposed allotment. Building Envelopes meet the required Asset Protection Zones.

*** To enable other land uses that provide facilities or services to meet the day to day needs of residents**

The potential development to achieve a Two (2) lot subdivision provides facilities and services to meet the day to day needs of residents. The design meets DCP 2014 design guidelines. These lots therefore meet this Zone Objective, particularly as the Engineers Reports which accompany this application, prove ease of servicing and accessing the proposed allotments.

The proposal will not alter the planned density or character of the area beyond that anticipated within this R2 Zone, and the Two (2) lot subdivision enables the placement of the future new dwellings, on separate title deeds. This outcome will mirror the planned settlement density for the area.

As such, their design, blending character, and the use of existing cleared land, will preserve the character of the area; minimise impacts on the environment, and achieve the proper and orderly development of a large urban lot.

The proposal will not unreasonably increase the demand for public services or public facilities beyond that planned for the area; and will minimise conflict with adjacent dwellings and landuses. On this basis the proposed Two (2) lot subdivision meets all of the objectives set for the R2 Low Density Residential Zone.



2.2 Clause 4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows:

- (a) to ensure that lot sizes are compatible with local environmental values and constraints,
- (b) to facilitate efficient use of land resources for residential and other human purposes.

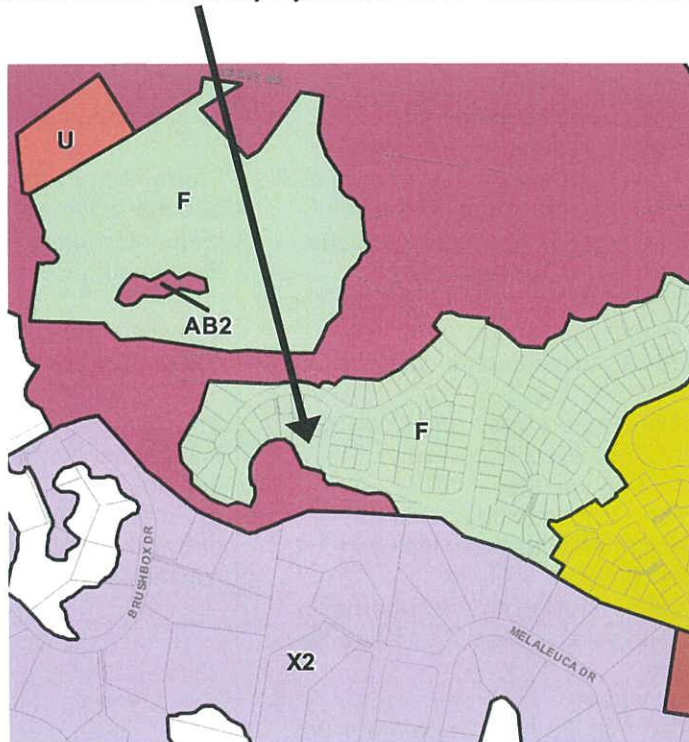
(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

The proposed development meets these zone objectives by creating Two (2) Lots large enough to contain future dwellings with adequate space around them to attain a high level of residential amenity (An unconstrained building envelope for Lot 1 of 12 x 15 shown, with a preliminary dwelling plan provided for proposed Lot 2 (see Planning Principle following).

The design restricts site works to mostly cleared lands to minimise environmental impact; and maintains the planned settlement pattern of the area.
(Minimum Allotment Size set at 400m² by Byron LEP 2014 - Minimum Lot Size Map Sheet No. 002BA).



The proposed Two (2) lot subdivision is to be made up of:

Proposed Lot 1 (980m²) – Vacant Lot (South).

Proposed Lot 2 (520) – Vacant Lot (North).



2.3 –Development Control Plan 2014 Part "D6.2.1" Subdivision

PRESCRIPTIVE MEASURES	PROPOSALS COMPLIANCE WITH D.C.P.
<p>D6.2.1 Subdivision Design Guidelines Objectives</p> <ol style="list-style-type: none"> 1. To specify development controls, design guidelines and criteria that apply generally to subdivisions. 2. To ensure that subdivision proposals deliver contemporary construction and services standards and result in development that is consistent with the particular needs, character and environment of Byron Shire. <p>Performance Criteria - Nil.</p> <p>Prescriptive Measures - Design Guidelines:</p> <ol style="list-style-type: none"> 1. Site Design <ol style="list-style-type: none"> a) The following natural environment factors must be addressed in the design of any subdivision: Climate control (wind and sun); Landform; Aspect and views; Geology and soils; Drainage and groundwater; Vegetation. Accessibility to urban centres; Accessibility to community and recreational facilities; Road and transport networks Site access; Physical and human services; Built environment in the vicinity; Existing buildings and improvements on the site. <p>Development applications for subdivision must include a Site and Context Analysis Plan. Climate Control and Aspect; Design of the proposed subdivision must aim to gain the most advantage of cooling breezes in summer and reduce the impact of adverse winds in winter by effective site layout and use of landscaping. Significant topographical features such as valleys and ridges can serve to channel or block prevailing winds.</p> <p>Similarly, the selection of vegetation types and location of vegetation buffers and shelterbelts can be used to advantage in climate control on the site.</p> <p>The design of site layout and landscaping should be structured to avoid funnelling unfavourable winds and encourage cooling summer breezes.</p> <p>Aspect is an important factor in designing the subdivision layout in regard to optimising solar access. The following principles are a basic guide.</p> <p>Solar access is maximised where:</p> <ol style="list-style-type: none"> a) Buildings can be sited so that the main living areas are oriented north. b) Overshadowing of, or by other buildings is minimised. <p>Shadows are small on a north-facing slope so dwelling sites can be closer together. On a south-facing slope, shadow length is increased so dwelling sites should be further apart. On east or west-facing slopes, dwellings need to be stepped back to maintain solar access.</p> <p>These guidelines must be considered together with the particular topography and vegetation of the site to achieve a layout that optimises solar access and site characteristics. A</p>	<ol style="list-style-type: none"> 1. The proposed Two (2) lots, are to be accessed by separate driveway crossings off Cockatoo Cres., and are easily connected to services. See Attached Engineering Drawings. <p>a) The design maintains much of the existing grass cover and all adjacent trees, the allotments already drain to an existing road drainage system in the east of the site.</p> <p>On this basis the proposal meets all of the design guidelines, and it will retain the existing approved and blending dwelling on site.</p> <p>Stormwater is also to controlled and managed within the design of the new allotments. (See Engineering Plans).</p> <p>The site is cleared land covered by lawn.</p> <p>a) Buildings can be sited so that the main living areas are oriented north.</p> <p>b) Potential overshadowing of, or by other buildings is minimised.</p>



<p>regular grid of N-S and E-W streets is unlikely to result in an attractive living environment or offer the flexibility for different housing needs.</p> <p>3. Hazards</p> <p>Hazard constraints potentially affecting land must be identified and addressed in preparing an application for subdivision. The following list identifies some hazards that may affect the potential for subdivision or influence subdivision design:</p> <ul style="list-style-type: none"> a) Flooding. b) Bushfire. c) Landslip and subsidence. d) Land contamination and the need to address the requirements under State Environmental Planning Policy No.55 – Remediation of Land. e) Acid sulfate soils. f) Coastal hazards. <p>Development applications must identify and address all potential hazards of the site in accordance with the requirements of Byron LEP 2014, this DCP and other relevant Council and State Government policies, guidelines and legislation.</p> <p>4. Vegetation removal</p> <p>Subdivision road layout must be designed around significant stands of trees. These may be located within reserves or accommodated within the subdivision layout such that dwelling construction may be achieved without causing any undue interference with existing trees.</p> <p>The environmental buffer distances in chapter B6 Buffers and Minimising Land Use Conflict should be incorporated into the subdivision design. Where urban subdivision adjoins bushland, Council may impose particular consent conditions relating to the ongoing management of the interface between the subdivision and the bushland.</p> <p>Proposals that require the removal of vegetation for bushfire protection purposes (e.g. asset protection zone) may need to include a Flora and Fauna Assessment and, where native vegetation is to be removed, may need to prepare a Vegetation Management Plan. Vegetation to be removed must be located within the subject land unless an agreement has been reached to provide the necessary asset protection zone on the neighbouring property.</p> <p>Evidence of any agreement with the neighbouring land owner, together with that owners' written consent to lodgement of the DA must be submitted with the development application.</p> <p>The agreement must be in the form of a proposed Section 88B Instrument under the Conveyancing Act 1919, consistent with the requirements of the NSW Rural Fire Service.</p> <p>For specific details on subdivision on bushfire prone land, applicants are referred to the NSW RFS document 'Planning for Bushfire Protection'. Any trees proposed to be removed</p>	<p>3. Hazard constraints potentially affecting land:</p> <ul style="list-style-type: none"> b) Bushfire: See Report. c) Landslip and subsidence Not Applicable. d) Land contamination and the need to address the requirements under State Environmental Planning Policy No.55 – Remediation of Land Addressed by reports submitted to Council with recent subdivision to create the site. e) Acid sulfate soils. Not Applicable. f) Coastal hazards. See Coastal Management SEPP Assessment. <p>4. Vegetation removal limited to Lawn.</p> <p>NO environmental buffer required as per chapter B6 Buffers and Minimising Land Use Conflict.</p> <p>Not Applicable- NO removal of vegetation for bushfire protection purposes (e.g. asset protection zone).</p> <p>Vegetation Management Plan not required.</p> <p>Section 88B Instrument not required under the Conveyancing Act 1919, consistent with the requirements of the NSW Rural Fire Service.</p>
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<p>as a result of a subdivision proposal must be identified in accordance with the provisions of B2.2.1 (Chapter B2 Preservation of Trees and Other Vegetation) or a Site and Context Analysis Plan (as required by Part A13) and be marked</p>	<p>No trees proposed to be removed.</p>
<p>clearly to facilitate identification at the time of site inspection.</p> <p>Riparian Buffers and land fronting watercourses</p> <p>Subdivision design must encourage the retention of riparian vegetation and should incorporate riparian buffers. The retention of existing vegetation and landforms assists in infiltrating, detaining and treating stormwater, as well as maintaining water balance and aesthetics. The retention of vegetation along watercourses also assists in habitat connectivity, which is critical to maintaining biodiversity. Riparian corridors must be left undisturbed. Their natural and ecological values must be enhanced where possible. Street and lot layout must be planned so that riparian habitat is retained and where possible connected to remnant habitat in adjoining areas. Where land proposed for subdivision fronts a watercourse, it is preferable that the subdivision be designed to limit direct access to the water.</p> <p>Vegetation and topography must be retained along the site's natural drainage lines. This vegetation will play a key part in providing habitat connectivity and maintaining biodiversity. The retention or reinstatement of vegetation and provision of habitat connectivity must utilise locally indigenous species and be incorporated in the design of public areas and facilities such as parks, detention/ infiltration basins, or water treatment areas.</p>	<p>All riparian vegetation retained.</p>
<p>Allotments having frontage to a watercourse are to comply with the minimum requirements for buffers under Chapter B6 Buffers and Minimising Land Use Conflict (where relevant).</p> <p>Landscaping</p> <p>The effective use of landscaping can make a significant contribution to climate control, ecological characteristics, the overall appearance of the subdivision and the residential environment which is ultimately created.</p> <p>Generally, one street tree per 15 metres of residential lot street frontage with a maximum canopy diameter of 8 metres at maturity is to be provided for new subdivisions. Applicants must comply with the landscaping design and maintenance requirements in Ch B9 Landscaping.</p>	<p>No additional Landscaping Required.</p>
<p>Roads</p> <p>Roads are to be designed to provide a pronounced road hierarchy in which the size, width and appearance matches its function. Streets at the lower end of the hierarchy must not become through-routes for unrelated traffic and proper provision must be made for buses and service and delivery vehicles.</p> <p>Depending on the overall size and layout of a subdivision, a typical road hierarchy could include:</p> <p>a) Arterial or sub-arterial roads – roads giving access to the subdivision but not part of it.</p>	<p>The development uses the existing road system and no new roads are required.. This is compliant having regard to the CPTED principles in Ch B11 Planning for Crime Prevention.</p>



<p>b) Collector street - a main link through the subdivision, connecting directly with arterial roads.</p> <p>c) Local access road - a loop road or cul-de-sac serving more than 15 lots.</p> <p>d) Minor road - a cul-de-sac, minor loop or minor access street, serving less than 15 lots.</p> <p>Where cul-de-sacs are proposed, consideration to is be given to providing pedestrian and cycling traffic through to the next street with regards to the CPTED principles in Ch B11 Planning for Crime Prevention.</p> <p>Roads (including footpaths, cycleways, and watercourse crossings) are to be designed in accordance with the requirements specified in the Northern Rivers Development and Design Manual as amended from time to time. Council will consider variations to these requirements on merit where compliance is proven to be onerous and having regards to the scale, location and density of the development.</p> <p>Where an allotment to be subdivided has access via an unsealed, unconstructed or partly constructed road, the applicant must provide constructed road access from the nearest constructed road to all allotments involved in the subdivision to facilitate ultimate design road capacity.</p> <p>The applicant must supply and erect street signs in accordance with Councils requirements.</p> <p>Subdivision development must provide footpath and nature strip treatment that reflects the particular road function and provides a safe and pleasant people-oriented environment for pedestrians and cyclists. New roads are to be appropriately landscaped with street trees in accordance with Ch B9 Landscaping and retain significant existing vegetation to complement the subdivision.</p> <p>Other street furniture such as bus stops to be provided as required.</p> <p>All development applications for subdivision to incorporate preliminary engineering drawings of the work to be carried out as required under the regulations.</p> <p>8. Street Lighting</p> <p>Council will require energy efficient street lighting to be provided and installed in conjunction with any subdivision located in an area where street lighting is required.</p> <p>New street lighting to be installed as part of a subdivision is to incorporate energy efficient technology to reduce power consumption and carbon footprint with a wattage of 55 watts or less, and may include:</p> <ul style="list-style-type: none"> a) Compact fluorescent b) T5 linear fluorescent c) Metal halide d) White LED e) Low Pressure Sodium lamps of 55W or less f) High Pressure Sodium lamps of 55w or less <p>Council will consider alternate street lighting arrangements powered from solar or wind turbines with back up mains power for subdivisions comprising 25 lots or more. Details to</p>	<p>a) Cockatoo Cres. gives access to the subdivision but does not form part of it.</p> <p>b) main link through to the subdivision.</p> <p>c) Proposed Local access road – Nil.</p> <p>d) Minor road – Nil.</p> <p>Compliant CPTED principles in Ch B11 Planning for Crime Prevention.</p> <p>See Engineering Subdivision Design Plan.</p> <p>Subdivision development provides footpath and nature strip treatment that reflects the particular road function and provides a safe and pleasant people-oriented environment for pedestrians and cyclists. See Engineering Subdivision Design Plan.</p> <p>Ch B9 Landscape retention.</p> <p>Street Lighting not required.</p>
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<p>be submitted with the development application including maintenance/ cleaning regime, suppliers/ installers warranties/ guarantees, accessibility to replacement parts, battery, panel and turbine life, useability in high wind situations for wind turbines and any noise issues. Street lighting to comply with AS1158 or AS3771 and any requirements for disability access and mobility. Written evidence that satisfactory arrangements have been made with the Energy Provider will be required prior to the release of a Subdivision Certificate</p> <p>9. Public open space and public reserves</p> <p>The value to the public of public open space is determined by how easy it is to get to, how well it is used, it's potential for active or passive uses, it's environmental value and how pleasant it is to be there. Public open space within a subdivision should form part of a pedestrian/cycleway network that connects residential areas and other facilities. Where appropriate, landscaping of open space must be integrated with street and private landscaping to bring the whole landscape environment together. Some Key Principles include:</p> <ul style="list-style-type: none"> a) There must be a functional hierarchy of open space to ensure leisure activities for a wide variety of people. b) Open space must be safe to use for access or leisure. c) It must enhance the function and appearance of the subdivision. d) It must act as a landscape-linking element. <p>Only land which is in a suitable location and which is able to be used for active or passive recreation will be considered to meet the requirements for public open space. Public open space areas must be functional, well-located and distributed appropriately throughout the subdivision to maximise accessibility and provide for passive and active recreational opportunities.</p> <p>Applicants proposing urban subdivisions of 25 lots or more are encouraged to contact Council for the requirements for the provision of open space or local parks as part of the subdivision prior to the preparation and lodgement of the development application.</p> <p>Land which is primarily used for drainage purposes may not be considered as open space if predominantly unusable. Specific requirements under the chapters for the Shire's towns and villages may also apply in relation to open space. Dedication and embellishment of land used for open space may be offset against the S94 contributions for open space. Applicants should consider the requirements of Council's section 94 contributions plan and the site specific chapters for urban release areas as these documents contain the site specific requirements for the provision of open space. Council's section 94 plan sets out the requirements for undertaking works in kind or the dedication of land in lieu of payment of monetary contributions. It is at the discretion of Council to accept land as open space.</p>	<p>9. Public Open Space Not Applicable – small yield subdivision.</p> <p>a) Not Applicable subdivision not of 25 lots or more.</p> <p>b) Not Applicable subdivision not of 25 lots or more.</p> <p>c) Not Applicable subdivision not of 25 lots or more.</p> <p>d) Not Applicable subdivision not of 25 lots or more.</p>
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Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



<p>stormwater detention system).</p> <p>e) For small lot subdivision where onsite stormwater detention is required, the construction may be deferred until the dwelling construction stage. In this regard a Restriction as to User must be created on the plan of subdivision pursuant to the provisions of S.88E of the Conveyancing Act 1919, stating: "No building or development shall be erected on the lots burdened unless the proprietor has first constructed or has made provision for construction of an on-site stormwater detention system (which expression shall include all ancillary gutters, pipes, drains, walls, curves, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater) (here in after called "the system"). The design, construction and/or provision of the system shall be to the requirements and satisfaction of Byron Shire Council."</p> <p>f) Lands identified as containing or directly adjoining watercourses or trunk drainage lines may be subject to partial inundation during the 1 in 100 year ARI storm event. A hydrology study must be submitted to identify the 1 in 100 year ARI flow level where the land is traversed by or adjacent to a watercourse or trunk drainage system. Development applications must demonstrate that the proposal complies with the requirements of the Northern Rivers Development and Design Manual and Chapters B3 Services and C2 Areas Affected by Flood.</p> <p>Utility Services Utility Services, including power and telephone, are to be provided in accordance with Ch B3 Services. The siting and design of proposed utilities must be illustrated on the subdivision plan submitted with the development application. Written evidence of satisfactory arrangements with a telecommunications and electricity provider must be submitted prior to release of a Subdivision Certificate. Provision must be made for the placement of telephone and electricity underground in visually sensitive locations. A renewable energy system may be approved for the subdivision where development applications demonstrate that the proposed system is sustainable, will provide adequate levels of service to future residents, and minimises the need to remove vegetation for service corridors. Where possible, subdivision design must provide for common trenching of services to reduce the number of trenches and the amount of land required, and to reduce costs and disruption due to maintenance. Trenching must meet the standards detailed within the Streets Opening Conference current Guide to Codes and Practices for Streets opening.</p> <p>Provision of Potable Water Supply Development applications must demonstrate that an adequate water supply will be available to meet the needs of future residents and occupants, either through the provision of reticulated water supply or rainwater tanks if reticulation is</p>	<p>e) As a small lot subdivision where onsite stormwater detention is required, the construction may be deferred until the dwelling construction stage.</p> <p>f) Not Applicable. No Hydrology study. Land NOT identified as containing or directly adjoining major watercourses or trunk drainage lines.</p> <p>Utility Services, including power and telephone, will provided in accordance with Ch B3 Services. Satisfactory arrangements with a telecommunications and electricity provider must be submitted prior to release of a Subdivision Certificate.</p> <p>Subdivision design provides for common trenching of services to reduce the overall trenches and the amount of land required, and to reduce costs and disruption due to maintenance. Trenching meets the standards detailed within the Streets Opening Conference current Guide to Codes and Practices.</p> <p>Ch B3 Services, and the Northern Rivers Development Design Manual compliant adequate water supply will be available to meet the needs of</p>
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<p>not available in accordance with the provisions of Ch B3 Services, and the Northern Rivers Development and Design Manual.</p> <p>13. Sewer must be provided to all lots within urban zones. Satisfactory arrangements for provision of sewer services made with Council in accordance with Ch B3 Services.</p> <p>Geotechnical Report</p> <p>a) Development applications for vacant lot subdivision must include a report and certificate from a NATA - accredited practising civil engineer confirming that all proposed allotments contain a building envelope of adequate size and shape (i.e. a rectangle with dimensions at least 15m x 12m) that is geotechnically capable of accommodating a dwelling house and is not subject to slip or subsidence. The certified building envelopes must be identified on the DA drawings.</p> <p>b) The report must address the matters listed in AS1726 (as amended from time to time).</p> <p>c) Engineer specialising in geophysical sciences and preparing reports for the consideration of Council must provide written evidence of their holding an insurance policy to the value of at least \$10m indemnifying him/her against professional negligence.</p> <p>Strata Title, Community Title and Stratum Subdivision</p> <p>The minimum areas specified by the Byron LEP 2014 lot size map apply to Stratum subdivision in all zones. The LEP sets out minimum lot sizes for Strata and Community Title subdivision in certain zones. For those zones where there is no prescribed minimum area for strata or community title subdivision, minimum lot sizes will be based on the development footprint.</p> <p>The terms of the development consent will be subject to the relevant provisions of the LEP and this DCP, depending on the location, zoning, characterisation and nature of the development proposed. Generally, approved Strata or Community Title Lots must include sufficient area to accommodate the approved development unit, together with any ancillary area, development or structure related exclusively to that unit, unless those facilities are provided in an approved Community Lot or Common Property.</p> <p>Council will not grant consent to a development application seeking consent for Strata or Stratum Title subdivision unless either that consent or a previous consent identifies and approves one or more buildings that will be erected on or in each of the new Strata or stratum lots.</p> <p>Where vacant lots (Stratum, Strata and Community Title) are proposed all relevant services, infrastructure and access provisions are to be constructed, and any necessary contributions to be paid, prior to the issue of the subdivision/ strata certificate.</p> <p>Applications for Stratum Subdivision must provide the following:</p>	<p>future residents and occupants, either through the provision of reticulated water supply or rainwater tanks.</p> <p>Geotechnical Report Attached.</p> <p>a) Report (matters listed in AS1726 and Certificate from NATA - accredited practising civil engineer).</p> <p>An unconstrained building envelope for Lot 1 of 12 x 15 shown, with a preliminary dwelling plan provided for proposed Lot 2 (see Planning Principle following).</p> <p>The Land is geotechnically capable of accommodating a dwelling house and is not subject to slip or subsidence.</p> <p>Not Applicable- Proposed Torrens Title Subdivision.</p>
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<p>a) Draft Plan of Subdivision showing the parcel at ground level and subsequent sheets for each level within the building</p> <p>b) A draft Building Management Statement as per Schedule 8A of the Conveyancing Act 1919.</p> <p>c) Details on easements including easements for support and shelter, vehicular personal access, services and any other easements. For further details on Stratum Subdivision applicants are referred to Part 23 - Division 3B Provisions relating to Stratum Lots of the Conveyancing Act 1919 and</p>	
<p>D6.4 Urban Residential Subdivision</p> <p>The following provides planning controls for subdivision of land in residential areas including the R2, R3 and RU5 Zones. RU5 is a rural zone however the most appropriate subdivision controls are those which apply to urban lots.</p> <p>D6.4.1 Lot Size and shape</p> <p>Objectives</p> <ol style="list-style-type: none"> 1. To provide lots of sufficient size to satisfy the needs of future residents, and which will accommodate well designed and innovative development; 2. To encourage diversity in lot size and opportunities for a variety of housing choice; 3. To ensure that lot design takes into account the natural features of the site and locality. <p>Performance Criteria</p> <ol style="list-style-type: none"> 1. Lots must be of sufficient area to allow for the siting of a dwelling and ancillary buildings, including provisions for private open space, solar access, vehicle access and parking. Lots must provide sufficient effluent disposal areas where required. 2. Lot sizes must enable dwellings and driveways to be sited to protect natural or cultural features, and must respond to site constraints including topography, bushland, soil erosion, drainage, and bushfire risk. 3. To provide useable areas, lot sizes may need to be increased where sites are steep or contain significant constraints or landscape features including watercourses and easements. 4. Lot design must enable the construction of a built form that is sympathetic to the established character of the area. <p>Prescriptive Measures</p> <ol style="list-style-type: none"> 1. Lot sizes must not be less than the minimum area specified in Byron LEP 2014 on the lot size map. 2. For lots that are not typical rectangular shaped lots, Table D6.1 indicates Council's preferred minimum lot sizes in urban subdivisions: Corner lot - 650 m²; Hatchet-shaped lot - 800 m² (excluding access handle) Hatchet-shaped lot adjacent to public reserve - 650 m² (excluding access handle); Fan-shaped lot (minimum frontage 7m) 650 m² 3. Proposed lots containing existing dwellings must not result in that lot having a floor space ratio lower than that 	<p>As previously stated: The proposed Two (2) lots which will contain a dwelling envelope to be accessed by a driveway which meets Council design standards, and are to be connected to services in accordance with the annexed Engineering Plans. The design will maintain the existing landscaping (Lawn).</p> <p>The allotments will drain to the road reserve in the east of the site.</p> <p>On this basis the proposal meets all of the design guidelines, with the lots large enough to provide adequate residential amenity to future dwellings.</p> <p>The Minimum Allotment Size is set at 400m² by Byron LEP 2014 - Minimum Lot Size Map Sheet No. 002BA. The subdivision meets this Statutory Minimum.</p> <p>The access driveways are designed to meet all Council driveway design standard standards. See Annexed Engineering Plans. As such the proposed Two (2) Lot Subdivision cannot be seen as either setting a precedent or prejudicing the proper future planning of the area.</p>

Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



<p>b) Driveways are to be installed, and, where crossing of an existing table drain is proposed, installation of appropriate sized concrete pipe and headwalls may be required.</p> <p>c) Fencing and access to comply with B4.2.4.</p> <p>d) Legal pedestrian access is to be provided back to the main street frontage by way of a Right of footway, common property or battleaxe subdivision design. This can also be used for the provision of services (water, sewer, power and telecommunications) to the rear dwelling house / lot and enable garbage and postal services to be collected from the street as opposed to the laneway. Where used for pedestrian purposes only, the handle to be a min 1.2m wide to facilitate easy access and manoeuvring of a garbage bin, whilst also providing a main street frontage for visitors and delivery services. Where infrastructure services are also sited in the handle, this may need to be increased to a width of 3m. Access handle be fenced for privacy, but not restrict sight distances to adjoining driveways.</p> <p>e) Applicants are to demonstrate that each lot can accommodate an unconstrained building envelope of 12 x 15 metres. Dwelling houses and garages are to be set back a minimum of 3 metres from the laneway boundary.</p> <p>f) No gates or doors are to open out onto the public road reserve including the laneway.</p> <p>g) Landscaping is to comply with the requirements of Ch B9 Landscaping. D6.5 For development incorporating more than two lots, or development for the purpose of two or more dwellings (not including any secondary dwelling), Council may require a higher standard of laneway upgrade in terms of width of seal and drainage infrastructure.</p>	<p>b) Not Applicable.</p> <p>c) Fencing and access to comply with B4.2.4.</p> <p>d) Legal pedestrian access provided to street.</p> <p>e) Each lot demonstrates that it can accommodate an unconstrained building envelope for Lot 1 of 12 x 15, with a preliminary dwelling plan provided for proposed Lot 2 (see Planning Principle following).</p> <p>f) No gates or doors open out onto the public road reserve.</p> <p>g) Landscaping complies with the requirements of Ch B9 Landscaping</p>
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2.4 Planning Principle – Building Envelopes

The Byron LEP 2014 does set a minimum allotment size within R2 Zoned land at 400m².

DCP 2014 then requires a 12m x 15m building envelope.

In this instance an unconstrained building envelope for Lot 1 of 12 x 15 can be achieved.

For Lot 2 at only 12m wide, proof of the ability to build at this size is achieved with a preliminary plan for a potential future dwelling on for proposed Lot 2.

In this instance a preliminary Dwelling design is submitted as part of the subdivision design, and therefore “the constraints on this future building” are proven.

On this basis the design meets the Planning Principle set by Roseth SC in Parrott v Kiama, and as such the proposed Torrens Title Subdivision and Dwelling should be approved by Council.

Parrott v Kiama [2004] NSWLEC 77 revised – 16/03/2004

LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES 11149 of 2003 Roseth SC

Planning principle

Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



17 When should a subdivision application include information on the buildings to be built on the resulting allotment(s)? It is normal practice in Australia to subdivide land without constraints on the buildings that can later be built. While this practice is appropriate in most cases, it is not always so. **I have adopted the planning principle that a subdivision application should provide constraints on future buildings when the proposed allotments are smaller than usual**, or environmentally sensitive or where significant impacts on neighbours is likely and needs careful design to minimise them.

In this case it is the Building Envelope that is smaller than usual.

This Planning Principle was used by the L&E Court in upholding the appeal of Lonergan v Byron Shire Council [\[2010\] NSWLEC 1059](#) 10566 of 2009, where Community Title Subdivision was approved based on the ability of these allotments to Contain future dwellings. In each case the two allotments proposed contained Residential 2(a) Zoned land less than the 600m² specified, i.e. Lot 2 - 252m² and Lot 3 - 568m².

Based on this established Land and Environment Court Planning Principle, it is considered that the Torrens Title Dwelling Lots 2 can be approved by Council considering the circumstances of the case and the fact that a preliminary dwelling design is submitted as part of the approval of the northern allotment.

As such the strict application of the 12m x 15m building envelope development Standard in this instance is unnecessary and unreasonable, and strict application would **not promote the attainment of EPA Act Objectives 5(a)(i) and 5(a)(ii). for the area.**

2.5 DCP 2014 Part B Sec B.14 Earthworks.

The objectives of the 1 m maximum earth works required under this Clause are:

- To minimise Environmental Impact.
- To blend the development into the site.
- To minimise erosion risk.
- To minimise disturbance to the natural landform.
- To encourage designs which blend into the natural landform.

In relation to the proposed design all earth works are less than 1m.

The development is designed to minimise site works by the construction style of development proposed, and to ensure no adverse impact by the instigation of erosion control measures prior to site works commencing.

2.6 DCP 2014 Part B.8 – Waste Management.

Waste minimisation Objectives

1. To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources.
2. To minimise demolition waste by promoting adaptability in building design and focussing upon end of life deconstruction.
3. To encourage building designs, construction and demolition techniques in general which minimise waste generation.
4. To maximise reuse and recycling of household waste and industrial/commercial waste.

Waste management Objectives

5. To assist applicants in planning for sustainable waste management, through the preparation of a Site Waste Minimisation and Management Plan.



6. To assist applicants to develop systems for waste management that ensure waste is transported and disposed of in a lawful manner.
7. To provide guidance in regards to space, storage, amenity and management of waste management facilities.
8. To ensure waste management systems are compatible with collection services.
9. To minimise risks associated with waste management at all stages of development.

WASTE MANAGEMENT

All building waste during the proposed construction of the subdivision will be stored in skips on site, with a recycling skip and a rubbish skip, to minimise land fill which results from the works proposed on site.

2.7 DCP 2014 - Stormwater

Clause 3.4 Stormwater Concept Plan

Development applications not seeking concurrent approvals for the stormwater management system must be supported by a Stormwater Concept Plan generally containing the following information:

1. Existing and proposed finished surface contours at relevant intervals (i.e. 0.1m for flat sites to 1.0m for sloping sites) and spot levels.
2. Proposed and existing building locations and floor levels.
3. Street levels including gutter.
4. Proposed infiltration measures (e.g. soakage trenches, swales, landscaping, permeable pavements, etc.). Where infiltration failure will affect a neighbouring property and the development involves more than a single dwelling (e.g. multi unit residential, commercial, industrial etc) then detailed infiltration test results and detailed designs are required.
5. Proposed discharge points to the public stormwater drainage system (show levels at these locations).
6. Site constraints such as trees, services or structures that may affect the drainage system.
7. Existing or proposed drainage easements.
8. Any surface flow paths or flood-affected areas.
9. Conceptual location and levels of proposed stormwater pipes and drainage pits.
10. Conceptual location and approximate area of proposed on-site detention facilities.
11. Proposed on-site detention stored water invert levels and emergency spillways.
12. Proposed management controls for flows entering, within and leaving the site.
13. Preliminary on-site detention calculations.
14. Justification that the proposed design measures will not cause adverse stormwater impacts on adjoining properties. Copies of Deposited Plan(s) and section 88B Instruments, showing details of easements over downstream properties, must also be submitted with the development application.

The attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels.

Drainage provided in the Cockatoo Cres. Road Reserve to the east.

B3.2.3 Stormwater Management Objectives

1. To promote on-site stormwater management practices that support the 'predevelopment' hydrological regime (surface flow, streams and groundwater).
2. To ensure that new development does not reduce the effectiveness of existing drainage patterns (including built infrastructure).
3. To minimise the impacts of stormwater runoff from a site on adjoining properties.
4. To provide an acceptable level of protection against personal injury and property damage due to localised stormwater runoff.
5. To promote on-site retention, detention and infiltration of stormwater.



6. To promote stormwater harvesting and other forms of innovative water conservation.
7. To promote better integration of stormwater management into development proposals.
8. To ensure that on-site stormwater management facilities can be economically maintained, and that adequate arrangements are made for on-going maintenance.
9. To provide for the ongoing environmental health of receiving waters;
10. To ensure that stormwater management systems protect ground and surface water and other ecological values;
11. To achieve best practice stormwater treatment targets for stormwater quality.

**The attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels.
Drainage provided in the Cockatoo Cres. Road Reserve to the east.**

Performance Criteria There are no performance criteria.

Prescriptive Measures

1. Development Applications

Development applications must contain sufficient information to assess whether the proposed stormwater system is effective and feasible, both within the site and in its connection to the public drainage system. An approval of the stormwater management system may be required under Section 68 of the Local Government Act 1993 or Section 138 of the Roads Act 1993.

An applicant may lodge detailed stormwater management plans with the development application for concurrent approval under Section 68 of the Local Government Act 1993 and Section 138 of the Roads Act 1993, as necessary. Alternatively stormwater management concept plans must be lodged with the development application and a condition of consent will require the relevant approvals prior to issue of the Construction Certificate.

Plans showing the method of draining the land are to be in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards. Sample drawings developed as part of the Northern Rivers Local Government Development Design and Construction Manuals provide guidance on the type of information that should be included in stormwater management plans for subdivision works. AS/NZS 3500.3:2003 Plumbing and drainage - Stormwater drainage is the relevant Australian Standard at the time of writing this document. Appendices C and K of AS/NZS 3500.3:2003 provide guidance on the type of information that should be included in stormwater management plans for building works. Council's manuals, and guidelines, including standard and sample drawings, are available on Council's website.

**The attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels.
Drainage provided in the Cockatoo Cres. Road Reserve to the east.**

2. Properties adjacent to or containing waterways

Lands identified as containing or directly adjoining waterways may be subject to inundation (during the 1 in 100 year ARI storm event). Development applications must demonstrate that the proposal complies with the requirements of the Northern Rivers Development and Design Manual. Development proposals in close proximity to waterways or other areas of possible inundation must be accompanied by a hydrologic study submitted by an appropriately qualified person to demonstrate that the proposal or any future development will not interfere with the natural flowpath or be subject to flooding (refer to Chapter C2 Areas Affected by Flood). Appropriate buffers to waterways must be provided.

**The attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels.
Drainage provided in the Cockatoo Cres. Road Reserve to the east.**

Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



The site is not flood prone, nor does it adjoin waterways.

3. Site Drainage

- a) Site drainage shall be in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards.
- b) For building works, the piped property drainage system is to capture and convey to a lawful point of discharge all stormwater runoff from the following areas of the development site:
 - i) impervious areas including roofs, paved areas and driveways
 - ii) areas subject to changes to ground level (existing) including excavation or filled areas
 - iii) areas where the natural or pre-development overland flow regime is disrupted to the potential detriment of an adjoining property.
- c) The development must not introduce, impede or divert stormwater runoff in such a manner as to increase stormwater flow across a boundary onto adjoining property. Concentrated, collected or diverted stormwater flow onto an adjoining property must be at a lawful point of discharge.

**As stated, the attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels.
Drainage provided in the Cockatoo Cres. Road Reserve to the east.**

4. Lawful Point of Discharge

- a) A lawful point of discharge exists at a particular location, if:
 - i) the location of the discharge is under the lawful control of the Council or other statutory authority from whom permission to discharge has been received; and
 - ii) in discharging in that location, the discharge will not cause an actionable nuisance.
 - b) Where a lawful point of discharge is not available in the vicinity drainage may need to be constructed and any easements may need to be acquired to direct collected stormwater to a lawful point of discharge. Negotiations with property owners must be undertaken along feasible easement routes to determine whether an easement can be obtained to provide stormwater system that will drain by gravity to a public drainage system. Where easements are proposed over downstream properties for drainage purposes, a letter of consent from the owner(s) of the downstream properties must be submitted with the development application.
 - c) For properties involving building works generally at a higher level than the adjoining road, where the site drainage system can be piped under gravity to the road drainage system, then the discharge is to be connected to the street drainage system.
 - d) For properties involving building works generally at a lower level than the adjoining road, where the site drainage system cannot be piped under gravity to the road drainage system, the discharge is to be carried out entirely in accordance with one of the following options:
 - i) Discharge to a public drainage system within the development site.
 - ii) Private drainage easement across neighbouring properties. Byron Shire Development Control Plan 2014 – Chapter B3 – Services Adopted 22 March 2018 Effective 12 April 2018 14
 - iii) Charged systems, but ONLY for residential developments up to and including a single dwelling where it can be demonstrated that an easement cannot be obtained and where the roof gutters are sufficiently above the road gutter to permit drainage via a (pressurised) sealed system.
 - iv) Dispersion trenches, but ONLY for residential developments up to and including a single dwelling, where it can be demonstrated that an easement cannot be obtained and sufficient land is available.
 - v) Infiltration trenches, but ONLY where it can be demonstrated that: an easement cannot be obtained; there is sufficient land available; the underlying soil is sandy enough to infiltrate all runoff up to the 20 year ARI storm; and infiltration will not lead to contamination of the groundwater. Other storm events may be considered having regard to the consequences of failure and impacts on downstream properties.
 - vi) Pump-out systems, but ONLY for basement car park areas where: it can be demonstrated that, if gravity drainage is not possible, an easement cannot be obtained; the contributing
- Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby**



catchment is the driveway ramp only, up to a maximum of 60 m² ; and, pump failure will not cause overflow affecting neighbouring properties or habitable floor areas.

**The attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels.
Drainage provided in the Cockatoo Cres. Road Reserve to the east.**

5. Easements

- a) Easements are to be in accordance with the Northern Rivers Local Government Development Design and Construction Manuals.
- b) Where a site is traversed by a drain (under the control of Council) that is not within an easement, a suitable easement must be created in favour of the Council.
- c) Where an easement is benefiting private property(s) only, the easement is not to be to the benefit of Council.
- d) Where an easement is required to be created a written agreement must be made between all relevant parties agreeing to its creation. Evidence of the written agreement to the creation of the easement is to be submitted with a Development Application. Council may grant deferred commencement consent subject to easement creation.

Drainage easement not required.

6. On-site Stormwater Detention (OSD)

- a) On-site Stormwater Detention (OSD) shall be provided in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards.
- b) OSD shall generally be incorporated into all development (except as provided by 'c)' below), including the following:
 - i) residential, commercial and industrial development;
 - ii) educational establishments, hospitals, community services and other institutions;
 - iii) public buildings;
 - iv) impervious car parks; and
 - v) tennis and other impervious playing courts.
- c) OSD is not required in the following circumstances:
 - i) where the total net increase in impervious area is less than 150 m² ; Byron Shire Development Control Plan 2014 – Chapter B3 – Services Adopted 22 March 2018 Effective 12 April 2018 15
 - ii) if the application is for or relates to a dwelling house unless a restriction on title specifies otherwise;
 - iii) if the application is for development on land zoned RU1, RU2, or R5 unless needed to provide a lawful point of discharge;
 - iv) where the site drains directly to a trunk drainage system within the tidal reach of a river or stream;
 - v) where the site is located within a catchment within which a regional detention structure has been provided for the ultimate development of the catchment;
 - vi) where dispersion or infiltration is used as the means of stormwater discharge from the site; or
 - vii) where a Consulting Engineer has undertaken a detailed analysis of the entire catchment and demonstrated that the provision of detention on the subject property, including consideration of the cumulative affect of detention provision across the catchment, will provide no benefit to any downstream drainage system for storm frequencies between the 5 year and 100 year ARI.

**As stated, the attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels.
Drainage provided in the Cockatoo Cres. Road Reserve to the east.
The stormwater system will be subject to conditions of Consent and a detailed design will accompany the Construction Certificate.**

Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



7. Stormwater Quality and Treatment

a) Applications for development types listed in Table B3.1 (including redevelopment) must address the “key” pollutants identified in that table (see below).

Table B3.1 – Key pollutants in stormwater flows to be addressed

Development Type	Litter	Coarse Sediment	Fine Particles	Total Phosphorous	Total Nitrogen	Hydrocarbons, motor fuels, oils & grease
Low Density Residential ¹ . bed and breakfast accommodation & farm stay accommodation	Y	N	N	Y	Y	N
Medium Density Residential ² & tourist and visitor accommodation (excluding bed and breakfast accommodation & farm stay accommodation)	Y	Y	Y	Y	Y	N
Commercial, Shopping & Retail Outlets	Y	Y	Y	N	N	N
Industrial	Y	Y	Y	?	?	Y
Car Parks, Service Stations & Wash Bays	Y	Y	Y	N	?	Y

Y - Key pollutant, needs to be addressed.
 ? - Variable, requires site specific assessment.
 N - Not significant.

(Source: Adapted from the *Byron Shire Urban Stormwater Management Plan*)

1. - “Low Density Residential” development refers to dual occupancies, dwelling houses, rural workers’ dwellings, secondary dwellings, shop top housing comprising 2 or less dwellings and semi-detached dwellings.
 2. - “Medium Density residential” development refers to attached dwellings, boarding houses, group homes, hostels, multi dwelling housing, residential flat buildings, seniors housing and shop top housing comprising 3 or more dwellings.

Table B3.2 – Pollutants and Retention Criteria

Pollutant / Issue	Retention Criteria
Litter	70% of average annual load greater than 5mm.
Coarse Sediment	80% of average annual load for particles 0.5mm or less.
Fine Particles	50% of average annual load for particles 0.1mm or less.
Total Phosphorous	45% of average annual load.
Total Nitrogen	45% of average annual load.
Hydrocarbons, motor fuels, oils & grease	90% of average annual load.



b) Applications for subdivisions and developments involving an area of land greater than 2,500m² must provide measures to address the “key” pollutants in accordance with Table B3.2 for all stormwater flows up to 25% of the 1 year ARI peak flow from the development site.

c) Runoff from all areas (including roofs and paved areas) needs to be treated. Significant water quality improvements can be achieved by configuring a sequence of treatment measures (a ‘treatment train’). Such measures may include roofwater tanks, infiltration devices, filtration & bio-retention devices, porous paving, grassed swales, better landscape practices, ponds & wetlands and stormwater tanks. The suitability of treatment measures will depend largely on site conditions. For example, infiltration devices are not suitable in areas with heavy clay soils and subsoils.

As stated, the attached Engineering Subdivision Plan shows Contours, drainage, access, service connection and earthworks and finished levels, and street levels. Drainage provided in the Cockatoo Cres. Road Reserve to the east.

2.8 State Environmental Planning Policy (Coastal Management) 2018

The property sits outside mapped areas for :-

Division 1 Coastal wetlands and littoral rainforests area

10 Development on certain land within coastal wetlands and littoral rainforests area

11 Development on land in proximity to coastal wetlands or littoral rainforest

Division 2 Coastal vulnerability area

12 Development on land within the coastal vulnerability area

Division 3 Coastal environment area

13 Development on land within the coastal environment area

Division 4 Coastal use area

14 Development on land within the coastal use area

Division 5 General

15 Development in coastal zone generally—development not to increase risk of coastal hazards.

16 Development in coastal zone generally-coastal management programs to be considered.

17 Other development controls not affected.

18 Hierarchy of development controls if overlapping.

16 Development in coastal zone generally—coastal management programs to be considered

17 Other development controls not affected

18 Hierarchy of development controls if overlapping

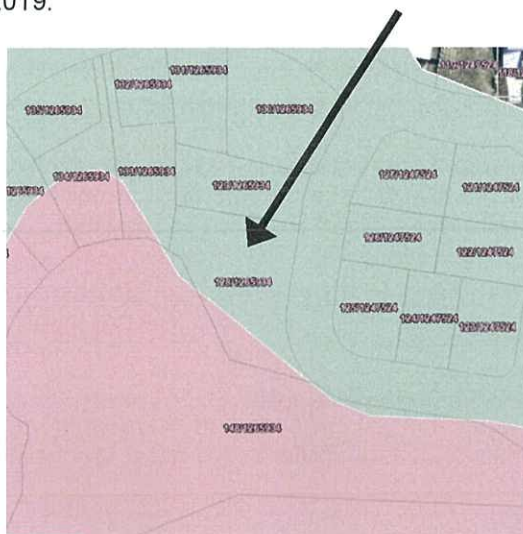
Conclusion

The subject development is to take place on land not mapped under SEPP (Coastal Management) 2018, and it is separated from the coast by 4km of Large Lot Urban, Farming, and National Park. The site is not located proximate to Wetlands or Rainforest.



2.9 Planning for Bushfire 2019.

The annexed Bushfire Report from Bushfire Certifiers shows that the potential dwelling sites on each allotment do not exceed the maximum BAL 29 Exposure as permitted for subdivision development under PBP 2019.



The Bushfire Certifiers report makes the following recommendations for the development. The full report however is to be considered, including Section 2.2 that details the Significant Environmental Features that are not considered by this report.

The proposed dwellings are to be setback a minimum distance of 13 metres from the western, southwestern, and southern boundaries and be constructed to BAL 29 AS 3959- 2018 + Section 7.5 Planning for Bushfire Protection 2019 (including the entire roofs and sub- floors) except for the eastern elevations of the dwellings which can be constructed to BAL 19 AS 3959-2018 + Section 7.5 Planning for Bushfire Protection 2019.

Construction specification detailing compliance shall be shown on the plans submitted with the application for a construction certificate and certified by an accredited building certifier.

A 1.8m high non-combustible fence shall be constructed along the western and southern boundaries (part) as shown in Figure 5. The fence is to be in close contact to the ground and have no perforations within the 1.8m height.

At the commencement of works and in perpetuity the entire properties are to be managed and maintained as an Inner Protection Area (IPA) to prevent the spread of a fire towards the buildings in accordance with Appendix 4 of Planning for Bushfire Protection 2019 and the requirements of 'Standards for Asset Protection Zones' (RFS 2005) (see **attached** Appendix C & Appendix D).

Any future buildings/structures within the recommended APZ, including Class 10a and Class 5-8 buildings, must be specifically assessed by this office and concurred with by NSW RFS to ensure the asset protection zone recommended is not compromised due to additional fuels within the APZ or compromising defensible space. This may result in the requirement for the structure, even when greater than 6m from the subject building, requiring compliance with the construction standards relevant to the setback from the bushfire hazard in accordance with Table A1.12.6 PBP2019. It is noted the proposed water tanks and pool (including pavers, etc.) shown on the site plan are acceptable provided they are constructed completely of non- combustible materials.



Landscaping is to be undertaken in accordance with Section 7.4 and Table 7.4a of Planning for Bushfire Protection 2019 as detailed in Section 8 of this report and managed and maintained in perpetuity.

New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of the dwelling it is to be made of non-combustible material only.

Water, electricity, and gas are to comply with Section 7.4 and Table 7.4a of Planning for Bushfire Protection 2019 and cl. 5.8 of AS3959-2018 as detailed in Section 6 of this report.

It is recommended that the property owner and occupants familiarise themselves with the relevant bushfire preparation and survival information located on the NSW Rural Fire Service website. This website should be accessed periodically to ensure the property owner and occupants are aware of the latest information. The RFS website is www.rfs.nsw.gov.au

See annexed Bushfire Certifiers Report dated 4.11.2021.

3 Sec. 4.15(1)(b) IMPACT ON ENVIRONMENT

The development involves minimal site works associated with the creation of Two (2) residential lots. Additionally the development is designed to utilise existing cleared and or developed land, thus preserving the residential amenity of the area.

Site works are limited to the creation of access driveways and services to each allotment.

No trees to be removed, and as such there will be no appreciable change in the character of the site or its surrounding area as a result of this proposed compliant subdivision.

It is there fore considered that the proposed development will have no significant adverse impact on the environment of the area.

Lawn Characterises the Site





3.1 EPA Act Sec 5.5 Duty to consider environmental impact

(1) For the purpose of attaining the objects of this Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

As stated, no trees are to be removed over this cleared site characterised by lawn. On this basis the proposal results in development meets the Sec 5.5 requirements of the EPA Act in that it results in the “protection and enhancement of the environment”.

3.2 Biodiversity Conservation Regulation 2017

The Biodiversity Conservation Regulation 2017 sets out threshold levels for when the Biodiversity Offsets Scheme will be triggered. The threshold has two elements:

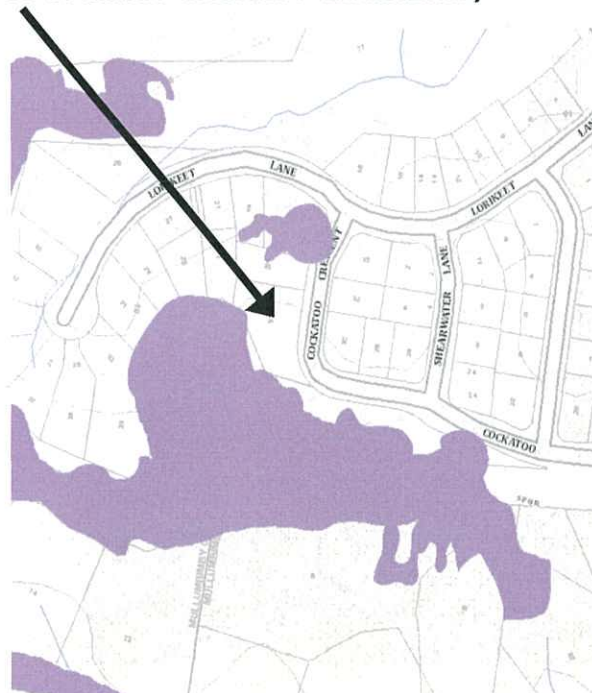
- Whether the amount of native vegetation being cleared exceeds a threshold area, or
- Whether the impacts occur on an area mapped on the Biodiversity Values map published by the Minister for the Environment

If clearing and other impacts exceeds either trigger, the Biodiversity Offset Scheme applies to the proposed development including biodiversity impacts prescribed by clause 6.1 of the Biodiversity Regulation 2017.

If the Biodiversity offsets scheme is not triggered, the test of significance detailed in section 7.3 of the Biodiversity Conservation Act 2016 must be used to determine whether a local development is likely to significantly affect threatened species.

As can be seen from the following extract from the Biodiversity Values map, as published by the Minister for the Environment, the proposed development sits outside the areas mapped on the Biodiversity Values map.

Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



3.2.1 Sec 7.3 of the Biodiversity Conservation Act 2016

Sec 7.3 Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats

(1) The following is to be taken into account for the purposes of determining whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats:

(a) in the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

In these areas of the Shire, the following Endangered or rare species could occur:

Endangered or rare tree species:

Acianthus amplexicaulis; Acronychia littoralis	(Scented Acronychia)
Amorphospermum whiteii	(Rusty Plum)
Archidendron muellerianum	(Veiny Lace Flower)
Cordyline congesta; Cryptocarya foetida	(Stinking cryptocarya)
Endiandra hayseii	(Velvet Laurel)
Syzygium hodgkinsoniae	(Red Lilli Pilli)
Syzygium moorei	(Durobby)
Thozetia racemosa; Randia moorei	(Spiny Gardenia)

Endangered or rare Bat Species:

Chalinolobus nigrogriseus	(Whorrie Bat)
Miniopterus australis	(Mini Bent Wing Bat)
Nyctophilus bifax	(Small Cave Bat)

Endangered or rare animal Species:

Phascolarctos cinereus	(Koala)
Potorous tridactylus	(Potoroo)

Threatened species were not identified on this site, and the cleared nature of the site ensures minimisation of impact.

In general the habitat contained on site is not one conducive to the habitat needs of threatened species, particularly given its small size, disturbed nature, and low density residential R2 Zone location.

(b) in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

As previously indicated, minimal habitat is to be removed (Lawn).

(c) in relation to the habitat of a threatened species or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality,



Due to there being NO native trees to be removed, then no habitat areas in the district will become isolated from interconnecting or proximate areas of habitat for a threatened species, population or ecological communities.

(d) whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly),

As detailed, no critical habitat will be affected.

(e) whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.

The proposed Two (2) Lot Subdivision is to take place on the cleared, and grossly disturbed central areas of the site.

It is thus considered that the development will not be a threatening development or activity.

(2) The Minister may, by order published in the Gazette with the concurrence of the Minister for Planning, issue guidelines relating to the determination of whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats. Any such guidelines may include consideration of the implementation of strategies under the Biodiversity Conservation Program.

In this instance no Ministerial order has been issued in relation to the proposed development, and to this end the proposal is not considered to be one which will impact on any declared area of outstanding biodiversity value. In addition to this, the development will not result in any loss of native habitat about the site.

3.3 VEGETATION

3.3.1 PLANT COMMUNITIES

Lawn

3.3.2 FAUNA

Limited to birds and mammals and reptiles in adjacent protected bushland to the west, venturing into the western extremities of the site.

3.4 S.E.P.P. 2021 KOALA HABITAT.

Due to the cleared nature of the site, NO Koala habitat will be affected.

3.5 S.E.P.P. No. 55 CONTAMINATED LANDS – ACID SOILS.

The site is removed from old dip yards, proposed subdivision is to occur within a cleared area of the site, previously assessed for Contamination when the parent lot was created by a recent Council Approved Subdivision.

On this basis there is no need to take the next step and undertake soil analysis, as the site where development is proposed is not one likely to be adversely affected by past landuse practices.

No Acid Soils exist in the area, and as such none will be intersected.



3.6 Impact on the Built Environment

The design of the proposed Two (2) Lot subdivision blends with the characteristics of the area through its sensitive design, which responds to the nature of the site, and the requirements of Councils B.L.E.P. 2014 and D.C.P. 2014. (See Introduction for Details).

This development will not prejudice future planning in the Shire due to the large size of the allotment, and the large size of the allotments proposed compared to the densely settled nature of the adjacent urban area.

The Conclusion is that the proposed Two (2) lot subdivision, will not be at odds with the streetscape, and therefore they will not prejudice the proper future planning of the area.

Furthermore, it is aided by the densely settled nature of the area, and the low key nature of the use. Generous setbacks are maintained, and the development reflects the design requirements of Byron D.C.P. 2014, and is not out of character with the development characteristics of the surrounding area.

On this basis the sensitive design should be approved by Council as it meets design outcomes sought for the area.

3.7 MEASURES TO PROTECT THE ENVIRONMENT

SITE WORKS

By its nature, this type of small subdivision of Two (2) lots responds to the nature of this site, and achieves minimised environmental impact by reducing the extent of earth works required, thus minimising top soil removal, and reducing the risk of suspended solids entering the local drainage system.

Fortunately for this site the lowest points within the property are cleared grassed areas which separate the areas requiring site works from the natural drainage system (Road Reserve). The only site works proposed will be those associated with the placement of the access drive, and trenching required for services and drainage.

Berms of straw bails and / or low mesh sediment fences will be placed between site works and the drainage system to ensure that suspended solids do not enter it.

EROSION CONTROL DIAGRAMS

General Notes – Soil and Water Management

- a) No disturbed area is to remain denuded longer than 30 days.
- b) All erosion and siltation control measures are to be placed as the first step in grading.
- c) All stormwater and sewer lines not in streets are to be mulched and seeded within 15 days after backfill. No more than 150 metres are to be opened at any one time.
- d) Electrical power, telephone and gas supply trenches are to be compacted, seeded, and mulched within 15 days after backfill.
- e) All temporary earthbanks, diversions and sediment control devices are to be machine compacted, seeded and mulched for temporary vegetation cover within 10 days of completion of grading. Straw or hay mulch is required.
- f) All fills are to be left with a lip at the top of the slope at the end of each days operation.
- g) Cut and fill slopes are to be seeded & mulched within 10 days of completion of grading.
- h) Any disturbed areas not paved, sodded or built upon are to be seeded within 15 days with sudan grass or equivalent, and mulched with straw or hay mulch at the rate of 2 tonnes per hectare.
- i) Refer to Soil and Water Management for Urban Development NSW Department of Housing, January 1993



- 10a. All sediment control devices as specified in the soil and water management plan at locations marked "EC" and maintained in place till grass is re-established at completion of construction.
- 10b. Sediment traps as shown "ST" to be placed across all pit entrances.

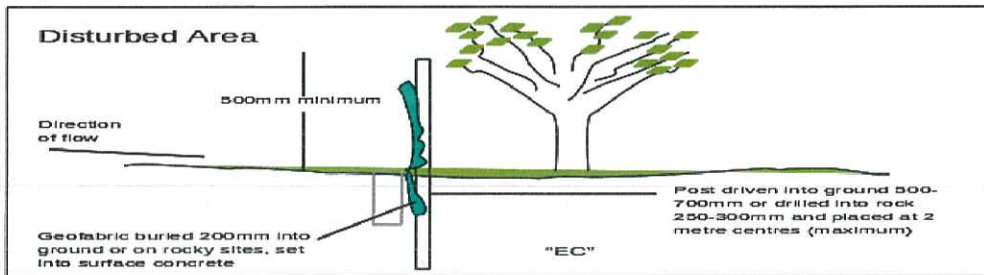


Figure 1: Construction of a geofabric-lined 'silt' fence

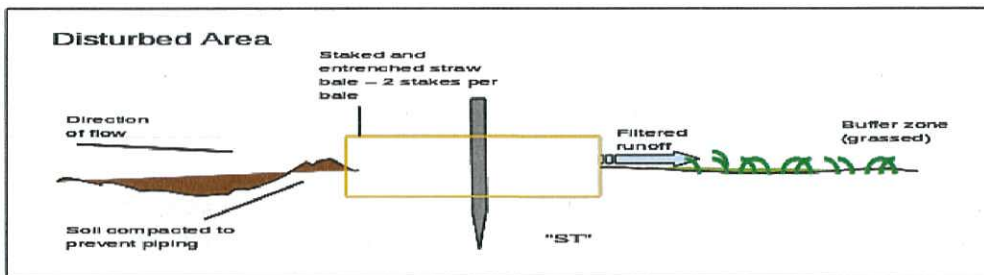


Figure 2: Cross-section of a properly installed straw bale bund

4 Sec. 4.15(1)(c) SUITABILITY OF THE SITE

The property is located on the western side of Cockatoo Crescent Mullumbimby.

An unconstrained building envelope for Lot 1 of 12 x 15 is shown, with a preliminary dwelling plan provided for proposed Lot 2 (see earlier detailed assessment against Planning Principle).

As such the proposed Two (2) Lot Subdivision cannot be seen as either setting a precedent or prejudicing the proper future planning of the area.

Thus, it is considered that having regard to the shape and nature of the allotments proposed, that the approval of the 2 Lot Subdivision is a responsible planning solution to effect better urban land usage.

All services can easily be connected to the allotments.

4.1 GEOLOGY

The site is characterised by degraded rock and clays. The soils are suitable for the Dwelling allotments proposed. (See attached Geotechnical Reports). Minimal site works are required and erosion control measures are to be put in place to minimise environmental impact.

4.2 ACCESS AND PARKING

The access is to be achieved to each allotment via its own driveway crossing.

See annexed report from Civil & Structural Engineer.

Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



4.3 TRAFFIC

The use will result in only a small increase in local traffic, and the upgrade of the two access points will enable this increase in local traffic to occur with optimum safety and visibility at the access point.

4.4 PUBLIC TRANSPORT

School Bus Services and Blanches Bus Service, in addition to Taxis currently service the area.

4.5 SERVICES

Existing services are adequate to cater for the increased demands made by the development. As stated, all services can easily be connected to the allotments.

These design outcomes improve the overall access, servicing and drainage management of this urban area.

ELECTRICITY SUPPLY Essential Energy advise that electricity supply is connected to the site and can be extended to the proposed allotments.

TELEPHONE SUPPLY Telestra advise that cables in the area are connected to the development site from the local Exchange Network.

GARBAGE COLLECTION Garbage from the development will be collected as part of Councils urban service, with organic matter composted on site.

WATER SUPPLY Town Water is connected and adequate rainfall exists to meet anticipated demand via the proposed roof tank roof collection method.

SEWERAGE Connection to reticulated sewer system, which is to be extended to connection points for the new lots.

5 Sec. 4.15(1)(d) SUBMISSIONS UNDER ACT OR REGULATIONS

Not applicable.

6 Sec. 4.15(1)(e) PUBLIC INTEREST

Due to the sensitive development of the site, the maximisation of separation from adjacent dwellings, and retention of all native vegetation to the west, it is considered that the Public Interest is served by the approval of this generally complying application.

7 OVERALL DESIGN

The proposed Two (2) Lot Subdivision is designed in accordance with design principles for the area, such that it will not only meet the recreation and housing needs of the future owners/residents, but it is designed to meet all B.L.E.P. 2014 and D.C.P. 2014 design objectives relating to Subdivision development within an existing R2 Low Density Residential Zone. It also meets PBP2019 requirements as well as all relevant State Environmental Planning Policies.

The DCP 2014 design objectives are achieved within acceptable environmental guidelines to ensure minimisation of environmental impact, minimisation of visual impact, and ensuring that there is no loss of residential amenity, particularly in relation to adjacent dwellings.

Proposed Two (2) Lot Subdivision Lot 128 DP 1265934, 33 Cockatoo Crescent Mullumbimby



8 CONCLUSION

It is considered that the proposed Two (2) Lot Subdivision, due to the practical design and low scale nature of the development, will have a minimal impact on the environment and visual amenity of the area. Additionally, it will satisfy a genuine need for the better utilisation of this large residential site to facilitate infill urban housing, and meet the recreation and lifestyle needs of the existing and future owners without detracting from the residential amenity of adjoining residences.

As NO loss of habitat will occur, it is considered that the development will not cause any adverse environmental, social or future planning impacts.

This is particularly so as the character of the area will be maintained, and the viability of the property will be improved through better utilisation of the space on site.

Critically it will all occur without overshadowing adjoining development, or encroaching on the privacy and access to sunlight or breezes for the adjacent dwellings.

On this basis the proposal cannot be considered an over development of the site, merely a sensible design outcome which meets the challenges of this large urban allotment in a responsible way.

The sensitive design should be approved by Council as it meets design outcomes sought for the area, it results in a well planned development of the site, and it will maintain a high level of residential amenity.

Yours Sincerely

Chris Lonergan
Senior Planner
B.A. (Town Planning U.N.E.)
27th. Jan. 2022.