



DEVELOPMENT APPLICATION & STATEMENT OF ENVIRONMENTAL EFFECTS

Submission to Byron Shire Council

Part demolition of existing dwelling and construction of a new dwelling on a residential lot

Lot 2 DP 367728 and Lot 20 DP 2772
No. 2 Stuart Street, Mullumbimby

for:

Mr and Mrs Mangleson

May 2022

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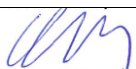

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1. Introduction

This section introduces the proposal and provides a general overview of the project.

1.1 Background

Ardill Payne and Partners (APP) has been engaged by Mr. and Mrs. Mangleson to provide town planning services in the preparation and lodgment of a development application and statement of environmental effects with Byron Shire Council.

Development consent is sought for the part demolition of the existing dwelling and construction of a single storey dwelling upon a residential lot described as Lot 2 DP 367728, No. 2 Stuart Street, Mullumbimby. The existing building on this lot current straddles the boundary of the adjoining lot 20.

1.2 Structure and Scope of Report

Section 1	Provides a general introduction to the proposal.
Section 2	Describes the subject land and its local environmental context.
Section 3	Describes the development proposal in detail.
Section 4	Reviews the key environmental interactions/impacts and proposed management measures.
Section 5	Reviews the statutory and planning policy provisions applying to the project.
Section 6	Provides a summary and conclusions.

A number of appendices form part of this report being:

Appendix A	Locality plan
Appendix B	Copy of DP
Appendix C	Architectural plans
Appendix D	BASIX and NaTHERS certificates

1.3 Overview of Statutory Framework

Byron Shire Council is the consent authority for the development application pursuant to Section 4.5 of the *EP & A Act 1979*.

The development does not comprise integrated development for the purposes of Section 4.46 of the *EP & A Act 1979*.

1.4 DA History

A search of Council's Development Application Trakker revealed the following DAs in respect of the subject land. It must be noted that the two lots have been used as one lot. This application will therefore relate to Lot 20 DP 2772 and Lot 2 DP 367728.

Application Number	Application Type	Lodgement Date	Details
13.2006.611.1	Occupation Certificate	22/06/2012	2 Stuart St, Mullumbimby 2482 NSW Inground Swimming Pool and Front Fence
11.2006.611.1	Construction Certificate	12/03/2007	2 Stuart St, Mullumbimby 2482 NSW In ground swimming pool and front fence
10.2006.611.1	Development Application	24/10/2006	2 Stuart St, Mullumbimby 2482 NSW In ground swimming pool and front fence

2. The Site and Its Context

This section describes the subject land and identifies the geographical context of the site and its relationship to the surrounding locality.

2.1. Location and Property Description

The subject land is described in real property terms as Lot 2 DP 367728 and Lot 20 DP 2772 and is commonly known as No. 2 Stuart Street, Mullumbimby. It is a corner allotment with Stuart Street its primary address with Mill Street its secondary road frontage.

The subject land contains a dwelling, swimming pool, secondary dwelling and garage which straddles the 2 lots. The existing primary dwelling and swimming pool is located on lot 20 whilst lot 2 contains the secondary dwelling and garage with the back section of the secondary dwelling crossing the boundary partially into lot 20.



Fig 1. 2 Stuart Street, Mullumbimby Lot 2 DP 367728 and Lot 20 DP 2772
Dwelling, swimming pool, shed and secondary dwelling

An aerial photograph of the subject and adjoining land is provided at **Appendix A**.

2.2. Site Analysis

As shown on the deposited plan at **Appendix B**, the subject land is regular in shape with the following dimensions and area:

Lot 2 DP 367728

- 10.060m to Mill Street (northern boundary)
- 26.755m to Lot 2 DP 610368 (eastern boundary)
- 10.060m to Lot 1 DP 610367 (southern boundary)
- 26.775m to Lot 20 DP 2772 (western boundary)
- area of 269.4m²

This site contains the secondary dwelling. Current vehicular access to the site to the secondary dwelling is via the driveway off Mill Street.

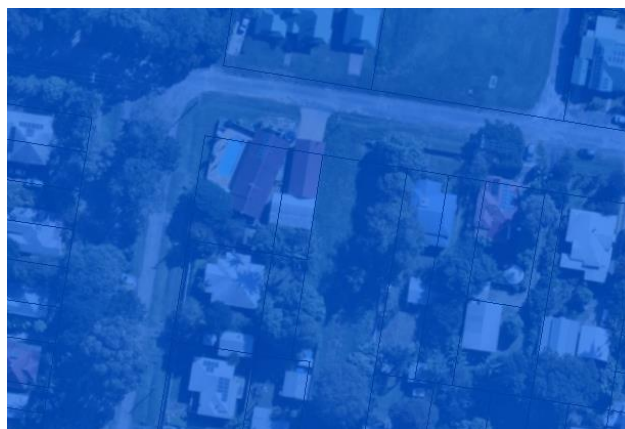
Lot 20 DP 2772

- area of 538m²

This site contains the primary dwelling. Current vehicular access to the primary dwelling is via the driveway off Stuart Street.

2.2.1. Flood prone land

As shown on Byron Shire Council online maps, the site is located on flood prone land.



Flood Information	
<input type="checkbox"/> Floor Level Survey 2016	>
<input checked="" type="checkbox"/> Flood 1 in 100yr - LEP / DCP Controls	>
<input type="checkbox"/> Flood Planning Area (West Byron)	>
<input type="checkbox"/> Fill Exclusion Zones	>

2.2.2. Other matters

Planning investigations of the subject land confirm that it is:

- **not** mapped as being or containing a heritage item
- **not** mapped as being bushfire prone
- **not** subject to road widening or realignment proposal under either Division 2 of Part3 of the *Roads Act 1993*, any environmental planning instrument or any resolution of the Council
- **not** identified as being subject to tidal inundation, subsidence or slip
- **not** known to contain a cattle tick dip site and not within the 200m dip site buffer
- **not** mapped as containing high conservation vegetation, threatened fauna records or threatened flora records

2.2.3. Local Context

The subject land is situated in built urban environment at the northern edge of the Mullumbimby Central business district characterised by a mix of uses including:

- Residential (single dwellings, parkland and the Brunswick river to the north and vacant residential lots)

3. Description of Proposal

This section describes the proposed development and identifies specific environmental and development objectives that will be adopted in conjunction with the project.

3.1. Proposed Development

The proposed development involves the demolition of the existing structures on lot 2 with the exception of the garage which will be utilized for the new dwelling.

- Demolish Existing Granny Flat (which is located over the boundary)
- Part demolition of shed
- Retain existing double garage

Also required to be removed/relocated structures which currently are located on the existing primary dwelling on lot 20 which currently cross the boundary into lot 2.

- Stairs from Laundry
- Portion of front patio within 900mm of the boundary
- Cut eave back to boundary and fire rate, a small easement for maintenance of the eave will be required

All new works will be located on lot 2 and will consist of the following.

- construction of a single storey dwelling and attached garage (existing), containing:
 - Combined kitchen and dining area
 - Living room with alfresco deck
 - Laundry located in garage
 - Double garage
 - Master bedroom with ensuite
 - 2 bedrooms with robes
 - Bathroom
- Walls clad with horizontal boards; existing garage is face brickwork with a colourbond pitched roof at a 27.5° pitch
 - 93.21m² GFA
 - Land Size 269.4m²
 - FSR 0.35:1

Plans of the proposed dwelling is provided at **Appendix C**, with BASIX certificate being provided at **Appendix D**.

3.2. Site Access

Vehicular access to the site will remain as existing via a 1 x double driveway from the road reserve off Mill Street. The primary dwelling on lot 20 will be accessed via the existing driveway crossover from Stuart Street.

The local road network is of a sufficient standard and capacity to accommodate all vehicle movements that will be generated by the proposed new dwelling.

3.3. Site Services

The subject land is connected to all necessary reticulated infrastructure services (being sewerage, water, electricity, telephone and stormwater) with the proposed dwelling to be duly connected to such. The new dwelling will require its own sewer connection stub installed as the current arrangement has the existing sewer on the secondary dwelling connected to the primary dwellings sewer which is acceptable for secondary dwelling but not a new dwelling. A new water meter connection will also be required as the secondary dwelling is connected to the primary dwelling.

4. Environmental Interactions and Impacts

This section expands on the contextual description of the physical environment provided in Section 2.0 and provides an analysis of the environmental interactions applicable to the proposed development with specific reference to the site planning objectives specified in Section 3.0 of the report.

Potential Environmental Impacts	Impact of Project and Ameliorative Measures (where applicable)
Flora	
- Loss of vegetation – native or exotic	The proposed dwelling is situated on an existing urban lot which is devoid of significant vegetation, the construction of the dwelling requires NO removal of trees or shrubs.
Fauna	
- Effect on native species of fauna	The proposal will not have any adverse impacts upon any native fauna species.
- Habitat loss	The proposal does not involve the removal or loss of any habitat.
Soils	
- Sediment & erosion control	Appropriate erosion and sediment controls will be installed and maintained during site/construction works.
- Contamination of site soils	The proposed works are not such that will result in any contamination of site soils.
- Acid sulfate	The subject land is mapped as containing acid sulfate soils.
Hazards	
- Slip	The land is a relatively flat urban residential lot that is not identified as being subject to slip hazard.
- Subsidence	The land is not affected by subsidence.
- Coastal processes	The land is not identified as being subject to any coastal processes.
- Bushfire	The land is not identified on the Byron LGA Bushfire Prone Land Map as being bushfire prone.
- Flooding	The land is identified as being subject to a flooding. The dwelling will be constructed to the required AHD stipulated by Council.
Water	
- Water Quality	No OSD is required as the additional net impervious increase is less than 150m ² . Rainwater from the roof will be disposed of into a 3000 litre water tank which will be disposed of to the legal point of discharge.
Visual Considerations	

- Visually prominent land	The new dwelling is single storey, with a comparable bulk, height and scale to other buildings in the local area and will have reasonable impacts on the local streetscape. The proposed dwelling is a single dwelling and will not be highly visible from the streetscape due to retaining the existing garage.
- Impact on scenic qualities	The proposed building will not adversely impact the local streetscape or scenic qualities of the locality.
Adjoining Land Uses	
- Solar access, privacy	There will not be any significant adverse impacts on the privacy or overshadowing of any adjoining residential buildings considering the location of adjoining buildings, aspect and setbacks.
- Dust, fumes etc. during construction	Best management practices will be implemented to control dust and fumes during future construction, in accordance with EPA and Byron Shire regulations.
- Noise during operations	Residential dwellings do not generally generate any operational noise that would adversely impact the locality or amenity of adjoining properties.
- Noise during construction	Hours of operation, in accordance with Byron Shire Council requirements will be adhered to.
Scale & bulk	
- Relationship to adjoining development	Adjoining development and land uses are described in Section 2 of this report. The immediate locality is characterised by residential uses. The proposed development will maintain the planned use of the site for residential purposes.
- Design, siting, scale, bulk and character	The design, siting, scale, bulk and character of the new dwelling is sympathetic to and complementary of the existing dwellings in the locality.
Heritage	
- Aboriginal heritage	The subject land is a residential lot that has been heavily disturbed by prior works and is not likely to contain any items of Aboriginal heritage.
- European heritage	The subject land does not contain a heritage item nor is it the subject land mapped as being within a heritage conservation zone.
Social & Economic Considerations	
- Social and economic impacts or benefits	There will not be any likely resultant adverse social or economic impacts. The dwelling will provide additional residential stock in Mullumbimby.
Traffic and Parking	
- Impact on local traffic and car parking provision	The proposed new dwelling will not impact the existing road network. The new dwelling will generate in the order of 9-10 daily vehicle movements. The local road network has sufficient capacity to service such movements.

Transport, access	
- Public transport	Bus services and routes exist in the locality.
- Pedestrian access	There is not a constructed public footpath system servicing the subject land.
Utility Services	
- Water, electricity, sewer	All services exist to the site and will be extended/connected to the proposed new dwelling.

5. Statutory and Policy Planning

This section of the report identifies and addresses the applicable environmental planning instruments (EPIs) and policy planning documents that must be considered by the consent authority in the consideration of this application.

5.1. Environmental Planning Instruments (EPIs)

This section identifies and provides comment on the EPIs and *EP & A Act 1979* provisions that are of relevance to the proposed development.

5.1.1. Local Environmental Plans (LEPs)

The Byron Local Environmental Plan 2014 (BLEP) came into effect on the 30th May 2014 and is the only LEP applying to the subject land. The land is mapped by the BLEP as follows:

- Land Zoning Map – Sheet LZN_002BA – R2 – Low Density Residential
- Height of Buildings Map – Sheet HOB_002 – J – 9m
- Floor Space Ratio Map – FSR_002BA – D – 0.5:1
- Lot Size Map – Sheet LSZ_002BA – M – 600m²

The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development involves the demolition and construction of a new dwelling on a residential lot which is defined in the Dictionary to the BLEP 2014 as:

*“**dwelling** means a room or suite of rooms occupied or so used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.”*

Dwellings are expressly permitted with consent within the R2 zone and are consistent with the zone objectives given it is intended that the development will assist in providing for the needs of the community.

Clause 2.6(3) provides that consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to the land. Consent is not being sought for subdivision.

Clause 4.3 relates to building height and provides that the height of a building is not to exceed the maximum height shown on the Height of Buildings Map. The land has a mapped maximum building height of 9m. The proposed dwelling has a maximum height of 5.579m from ground level. This is compliant with Clause 4.3.

Clause 4.4 relates to floor space ratio (FSR) and provides that the FSR for a building is not to exceed the FSR shown on the Floor Space Ratio Map. The land has a maximum floor space ratio of 0.5:1. The new dwelling combined results in a total floor area of 93.21m² which, on a lot of 269.4m², results in an FSR of 0.35:1 and thus satisfies Clause 4.4.

Clause 5.4(9) relates to secondary dwellings and provides that the total floor area of the secondary dwelling must not exceed whichever of the following is the greater:

- (a) 60 square metres*
- (b) 35% of the total floor area of the principal dwelling*

The proposed dwelling is not a secondary dwelling.

Clause 5.10 relates to Heritage Conservation. The subject site is within the Mullumbimby Conservation Zone.

Clause 6.1 relates to Acid Sulfate Soils. The site is mapped as containing potential Class 4 ASS.

Clauses 6.3 and 6.4 relate to flood planning and floodplain risk management, the site is located in a flood zone. The dwelling will be constructed on bearers and joist's to comply with the flood planning level.

Clause 6.6 provides that development consent must not be granted to development unless the consent authority is satisfied that the following essential infrastructure services are available or that adequate arrangements have been made to make them available when required:

- supply of water
- supply of electricity
- disposal and management of sewage
- stormwater drainage or on-site conservation
- suitable road access

The subject land will be required to be connected to and serviced by all necessary essential infrastructure services.

Clause 6.7 relates to affordable housing and provides that consent must not be granted for residential accommodation on land zoned R2 unless the consent authority has considered:

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

The construction of a small dwelling on a developed residential lot with will increase the housing stock in the local area.

Having regard to the above, the proposed development is compliant with the relevant provisions of the BLEP 2014.

5.1.1 State Environmental Planning Policies

SEPP (Biodiversity and Conservation) 2021	
Chapter 2 – Vegetation in Non-Rural Areas	This Chapter is not applicable to Byron LGA
Chapter 3 – Koala Habitat Protection 2020	This Chapter is not applicable to this site as the lot is less than 1ha
Chapter 4 – Koala Habitat 2021	This Chapter is applicable to the site. The subject site is not mapped as a Koala Planning Area.
Chapter 5-12	Not applicable
SEPP (Building Sustainability Index)	
This application is accompanied by a BASIX Certificate	
SEPP (Exempt and Complying Development Codes)	
Part 1 Division 2 - Exempt and Complying Development	The proposed works are outside the parameters of this Division of the Code (Clause 1.19).
Part 2 – Division 1 - Exempt Development Codes	The proposed works are not listed as a type of exempt development.
SEPP (Housing)	
Chapter 2 – Affordable Housing	Not applicable

Chapter 3 – Diverse Housing Part 1 – Secondary Dwellings Part 2-9 – Not applicable	Division 2 Not applicable Division 3 The proposed development does not meet the general requirements of the Codes SEPP and therefore this Division is not applicable to the subject site.
SEPP (Industry and Employment) 2021	
Chapter 2 – Western Sydney Employment Area	Not applicable to the subject site.
Chapter 3 – Advertising and Signage	This application does not include any signage.
SEPP No. 65 – Design Quality of Residential Apartment Development	
The development does not propose this form of residential development – Not applicable	
SEPP (Planning Systems) 2021	
Chapter 2 – State and Regional Development	The proposed development is not state significant development as defined by Section 4.36 of the EPA Act 1979.
Chapter 3 – Aboriginal Land	The subject site is not Aboriginal owned land.
Chapter 4 – Concurrences and Consents	The proposed development does not require concurrence.
SEPP (Precincts – Regional) 2021	
The proposed development is not a state significant project.	
SEPP (Primary Production) 2021	
This Chapter is not applicable to the site.	
SEPP (Resilience and Hazards) 2021	

Chapter 2 – Coastal Management	Not applicable to the subject site
Chapter 3 – Hazardous and Offensive Development	Not Applicable
Chapter 4- Remediation of Land	<p>This section of the SEPP provides that Council must not consent to the carrying out of any development unless it has considered whether the land is contaminated and if so, it must be satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is to be carried out.</p> <p>The land has and will continue to be used for residential purposes, which is a non-contaminating land use associated with development consent. The subject land is therefore not likely contaminated and thus there are no further investigations required.</p>
SEPP (Resources and Energy) 2021	
The proposed development does not involve extractive industries.	
SEPP (Transport and Infrastructure) 2021	
Chapter 2 Infrastructure	<p>- <i>Part 2.2 General</i></p> <p>The works are not proposed by a public authority.</p> <p>The works are not proposed upon State land.</p> <p><i>Part 2.3 Development Controls – Division 5 – Electricity transmission or Distribution</i></p> <p><i>Clause 2.48 – Determination of Development Applications – other development</i></p> <p>The subject works will not be impacted by overhead powerlines. Power lines are located at the front of the lot however the existing garage which will remain as is approximately 4m from the front boundary with new work starting from 9m from the front boundary.</p>
Chapter 3 Educational Establishments and Child Care facilities	Not applicable to the proposed development

Chapter 4 – Major Infrastructure corridor	The subject site is not a major infrastructure corridor.
Chapter 5 – Three Ports	This Chapter refers to land outside the Byron LGA.

5.2. Byron Shire Council Development Control Plan 2014

The Byron DCP 2014 came into effect on the 21st July 2014 and contains a number of provisions that are of relevance to the proposed development. An assessment of the relevant provisions is provided below:

Part A – Preliminary

A13.1.1 – Content and Site Analysis

All of the information sufficient to explain the characteristics and context of the site are provided in **Section 2** and **Appendices A** and **B** of this SEE.

Chapter B2 – Preservation of Trees and Other Vegetation

There are no native trees required to be removed to facilitate the proposed development.

Chapter B3 – Services

The subject land is connected to all public reticulated water, sewerage, electricity, telecommunications and stormwater infrastructure and roads. The proposed new dwelling will be connected to such. Existing infrastructure will require extending.

As required by BASIX, the roof-water will be collected in a minimum 3000 litre water tank and will be reused for the dwelling. Stormwater detention and treatment is not required onsite as the net increase in imperious area is less than 150m².

Chapter B4 – Traffic Planning, Vehicle Parking, Circulation and Access

The proposed dwelling will be provided with a double garage as existing garage will remain as existing, this will provide two undercover parking spaces for the new dwelling. The existing primary dwelling on lot 20 will remain as existing will access to a covered parking space from Stuart Street.

The local road network has sufficient capacity to accommodate the expected 2 x 9-10 daily vehicle movements that will be generated by the proposed and existing dwellings.

Chapter B7 – Mosquitoes and Biting Midges

The proposed dwellings will be provided with effective insect screening to all windows, doors and openings of those parts of the dwellings that will be used for residential purposes.

Chapter B8 – Waste Minimisation and Management

The subject land is situated in a built urban area that is serviced by Council's kerb-side waste collection and recycling services. Sufficient area exists on the land for the placement of two x 3 x wheelie bins for the dwelling, which will be collected kerb-side by Council.

Chapter B14 – Excavation and Fill

The site is relatively flat and there is no significant cut or fill proposed or required with the exception of the footings/pier holes.

Chapter C2 – Areas Affected by Flood

The subject land is mapped as being subject to flooding. The proposed dwelling will be constructed using bearers and joist to obtain the required flood planning level.

Chapter D1 – Residential Accommodation in Urban, Village and Special Purpose Zones***D1.2 – General Provisions******D1.2.1 – Building Height Plane***

There is a building height plane encroachment to the building along the eastern and western elevations of the proposed dwelling.

The encroachments are considered minor given the dwelling is single storey and is required to be elevated to achieve the required flood planning level. The adjoining land to the east is a drainage reserve and therefore the beach to this elevation is satisfactory.

The breach to the western elevation will effect the adjoining dwelling however due to the minor nature of the encroachment, will not create overshadowing. This dwelling has its private open space located along Stuart Street.

The proposed dwelling will be setback 1m from the eastern boundary, the dwelling on the adjoining lot is located approximately 1m from this boundary. Due to the proposed dwelling being located on the eastern boundary this dwelling isn't able to overshadow that dwelling. The proposed dwelling will not overshadow or cause a loss of privacy to the neighbouring lot.

The proposed dwelling has been designed to minimise impacts on solar access to the adjoining dwelling however still provides its living spaces facing north permitting the occupants of the building to enjoy the optimum use of winter sunlight and summer shade.

D1.2.2 – Setbacks from Boundaries

The new dwelling is setback 3.399m from Mill Road which is existing. The side boundary setbacks are 1.480m and 1.080m which complies with this standard.

D1.2.3 – Screening the Underfloor Space of Buildings

The proposed dwelling will be screened.

D1.2.4 – Character & Visual Impact

The proposed new dwelling has reasonable architectural merit and will present well to Mill Street. The dwelling will be located behind the existing garage and will not be highly visible from Mill Road.

D1.2.5 – Fences

NO fencing proposed forward of the building line.

D1.2.6 - Balconies

The small deck is not such that it dominates the visual character of the building and will enhance complement the streetscape presentation.

D1.2.7 – Pedestrian and Cycle Access

Not applicable – proposal is not for more than 3 dwellings.

D1.3 – Dwelling Houses

D1.3.1 – On-Site Car Parking

The new dwelling has been provided with a double garage with the existing dwelling provided with a carport off Stuart Street.

D1.3.2 - Landscaping

Substantially more than 25% of the site (required 67.4m²) (actual 93.9m²) comprises landscaped open space/deep soil zones.

Chapter E.3 Mullumbimby

The aims of this Chapter are to provide criteria and standard for future development. The site of the proposed dwelling is located in the Sensitive Character area of Mullumbimby

E3.4 Character, Bulk and Scale of Development

The proposed dwelling is small and will be located behind an existing garage. The new dwelling will fit in with the surrounding dwellings. building materials, textures, finishes and colours will be compatible with the surrounding environment.

E3.5 Objectives Urban Design and Infill Development

As stated above the dwelling is small and is not replicating the “older” style dwellings in the locality instead it has a simple dwelling with a pitched roof.

6. Conclusion

This section of the report provides a detailed conclusion of the development proposal and the environmental assessment.

Development consent is sought for the construction of a single storey dwelling on an urban residential lot.

The proposed development is permissible with consent and is consistent with the objectives of the R2 zone under the provisions of the BLEP 2014.

The proposed development has been subject to detailed assessment under all applicable environmental planning instruments, DCPs and policies having regard to all relevant environmental, social and economic considerations.

In conclusion and having regard to the particular circumstances of the case, it is respectfully requested that Council grant consent to this development application.

7. Scope of Engagement

This report has been prepared by Ardill Payne & Partners (APP) at the request of Mr Mangleson for the purpose of lodging a development application with Byron Shire Council and is not to be used for any other purpose or by any other person or corporation.

This report has been prepared from the information provided to us and from other information obtained as a result of enquiries made by us. APP accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

No part of this report may be reproduced, stored or transmitted in any form without the prior consent of APP.

APP declares that it does not have, nor expects to have, a beneficial interest in the subject project.

To avoid this advice being used inappropriately it is recommended that you consult with APP before conveying the information to another who may not fully understand the objectives of the report. This report is meant only for the subject site/project and should not be applied to any other.

8. Appendices

Appendix A	Locality plan
Appendix B	Copy of DP plan
Appendix C	Architectural plans
Appendix D	BASIX and NatHERS certificates

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D
