

DEVELOPMENT APPLICATION  
AND  
STATEMENT OF ENVIRONMENTAL EFFECTS

for

Stage 1: Driveway Access Works for Dwelling Site  
Stage 2: Four (4) Rural Tourist Cabins

at

Lot 18 Alidenes Road, Wilsons Creek  
Lot 14 DP 755722 and Lot 3 DP 115913

Date: November 2022

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B A L A N C E D  
S Y S T E M S

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P L A N N I N G C O N S U L T A N T S

address: P.O. Box 36 Bangalow 2479

email: [planners@balancedsystems.com.au](mailto:planners@balancedsystems.com.au)

mobile: 04 28 895 301

abn: 39 123 360 818

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# 1. INTRODUCTION

*Section 1 - presents the circumstances of the case and outlines the structure of the report*

## 1.1 Purpose and structure of this report

This planning report constitutes a statement of environmental effects (SEE) for a development application (DA) to Byron Shire Council seeking development consent for the following proposal:

Stage 1: Driveway Access Works for Dwelling Site

Stage 2: Four (4) Rural Tourist Cabins

The development application is proposed to occur at 18 Alidenes Road, Wilsons Creek, comprised of two allotments being Lot 14 DP 755722 and Lot 3 DP 115913.

This report addresses the provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act 1979.

The proposal is also integrated development, considering it requires a S100B bushfire assessment for the rural tourist facility component.

The structure of this report comprises the following format:

Section 1 - Introduction - introduces the report and explains the circumstances of the case.

Section 2 - The site and locality - introduces the site and describes the context of the site within its immediate and broader locality.

Section 3 - The proposed development - describes the proposed development for which this application is seeking planning consent and also describes the objectives of the proposed development and outlines the operational management characteristics.

Section 4 - Statutory planning assessment - examines the consistency of the proposed development with the provisions of relevant planning policies, objectives, statutory instruments and legislation.

Appendices – The appendices contain reports that provide additional assessments relevant to the application.

## 1.2 Circumstances of the case

Balanced Systems Planning Consultants have been engaged by Mr Ricky Singh to prepare a statement of environmental effects report and development application the following proposal:

Stage 1: Driveway Access Works for Dwelling Site

Stage 2: Four (4) Rural Tourist Cabins

The subject site is a rural allotment, currently utilised for cattle grazing, which is located at 18 Alidenes Road, Wilsons Creek. The owner is currently constructing a farm shed building under the EXEMPT development codes SEPP on the site.

The site contains mostly RU1 – Primary Production and RU2 – Rural Landscape land under the Byron LEP 2014 with a small portion of C2 – Environmental Conservation zone in the northern portion of the site. All of the proposed cabins are located within the RU2 – Rural Landscape zoned land.

Stage 1 works comprises an access driveway and associated works for a future dwelling site, which is currently being prepared for DA submission, to be lodged to Byron Shire Council.

Stage 2 works comprises four (4) rural tourist cabins that includes 1 x 2-bedroom cabin and 3 x 1-bedroom cabin and includes one cabin dedicated to persons with disability. The cabins are all located in a single cluster in the northern portion of site, on a north-facing ridge set below the ridge crest, with excellent northerly aspect and views of the country-side.

The proposed cabins comprise the following floor areas:

- Interior floor area approx. 60 sqm
- External living area approx. 21.2 sqm

Associated infrastructure for the cabins including the internal driveway, earthworks, carparking, pathways, wastewater management and water supply will be supplied to Council requirements and Australia Standards. The proposal will also include landscape plantings to improve the amenity and visual appearance of the buildings. A vegetation management plan also allocates significant ecological works to a management zone along the Mullumbimby Creek in the northern portion of the site.

The proposal is permitted under the current applicable Byron LEP 2014 and Byron DCP 2014, with local planning provisions and controls encouraging small-scale, sustainable tourism of which this proposal is highly consistent with all of the applicable current rules.

Bushfire management will be implemented on the site as per NSW RFS requirements while the proposed cabins are able to meet BASIX requirements. An on-site wastewater management system will provide suitable management of wastewater generated by the cabins. There is no native vegetation that needs to be removed to carry out the proposal, with all existing vegetation on the site to be retained and protected.

The owner of the property, Mr Ricky Singh, intends to reside on the property for the long-term, and has ambitions to diversify the farm property from being solely used as beef cattle grazing, to a mixture of sustainable land uses, that is highly consistent with the current Byron Council Rural Land Use Strategy 2017, other applicable Council strategies and NSW State policies.

## 2. THE SITE AND LOCALITY

*Section 2 - This section of the report introduces the site and describes the context of the site within its immediate and broader locality*

### 2.1 The region

The Far North Coast Region covers an area of 10,170 square kilometres. The Region extends from the Queensland border down the coast to Evans Head and west to Woodenbong and Tabulam. These are the traditional lands of the Bundjalung Nation.

The current population is more than 248,300 (2016) and since 2011 has been increasing by an average of 2,360 people each year. The community lives in the three regional centres of Tweed Heads, Lismore and Ballina; the five towns of Murwillumbah, Casino, Mullumbimby, Byron Bay and Kyogle; 36 rural and coastal villages; 110 small villages and numerous rural communities.

The Far North Coast is the most biologically diverse region in NSW and the third most in Australia. Through a combination of environmental features, recreational experiences, and a growing population, the Region has an opportunity to further develop as a sustainable and diverse economy while protecting and enhancing the region's unique environmental and social values.

The character of the Region has evolved from its environment and associated economic development over 150 years. From the early timber industry and agricultural beginnings to the more recent tree-changers and sea-changers, the environment has always had a major influence on the Region and its community.

The Far North Coast Regional Plan 2036 plans for an overall population of 286,100 people by 2036. This represents an additional 49,600 people or a 21% increase for the period 2011–2036.

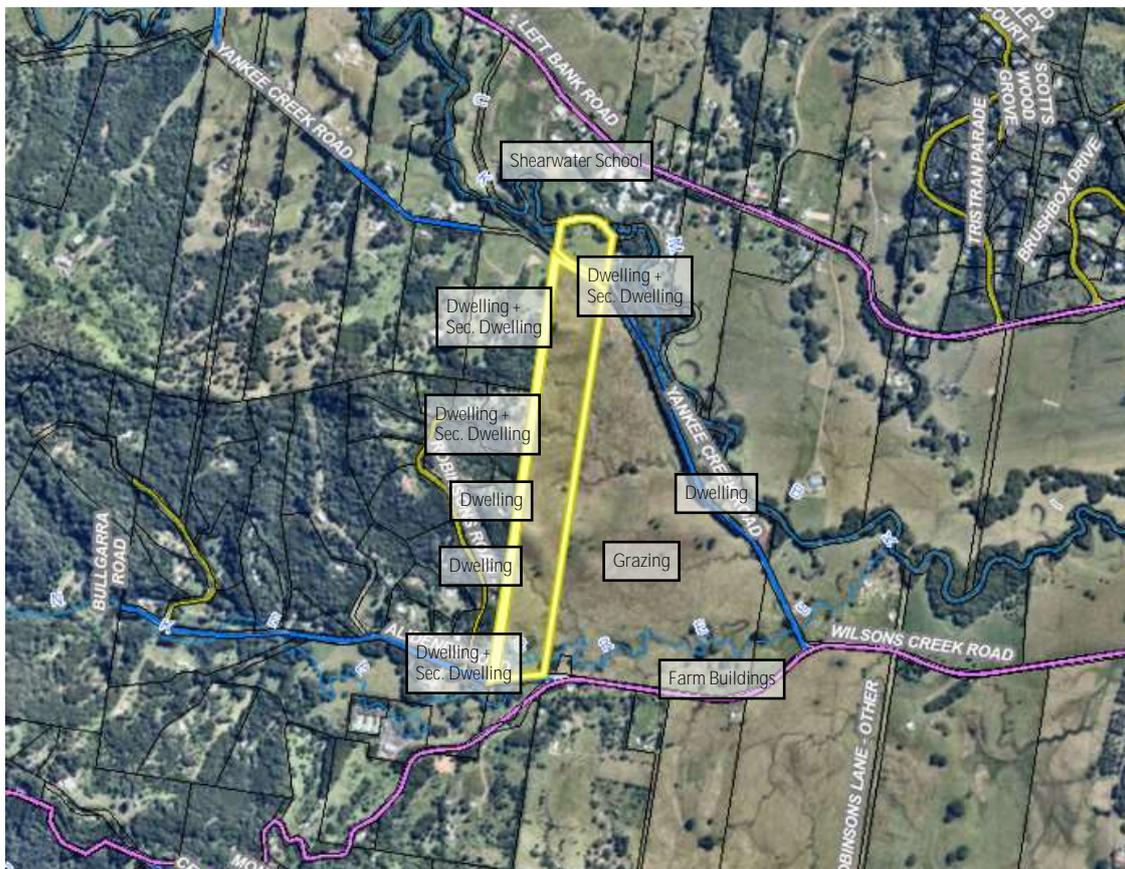
## 2.2 The locality

The subject site is located in the Byron Shire local government area, approximately 4 km south-west of Mullumbimby and 17 km north-west of Cape Byron, with easy access to a range of surrounding facilities, amenities and activities.



Wider locality (Source: NSW SIX Maps)

The surrounding land uses predominantly comprise a mix of rural living, agricultural pursuits, small-scale rural tourism and the Shearwater, The Mullumbimby Steiner School is located on the northern side of Mullumbimby Creek, to the north of the site. The subject site is depicted in the images below, with neighbouring land uses labelled:



Immediate locality (Source: Byron Council Map)

Stage 1: Driveway Access Works for Dwelling Site  
Stage 2: Four (4) Rural Tourist Cabins

## 2.3 The site

The subject site is located at 18 Alidenes Road, Wilsons Creek, lawfully recognised as Lot 14 DP 755722 and Lot 23 DP 115913, with a total area of 18.5877 hectares.

Allotment	Area
Lot 14 DP 755722	16.1874 ha
Lot 23 DP 115913	2.403 ha

The vacant allotment has frontage to Alidenes Road on the southern boundary frontage and contains an existing farm access connecting to Yankee Creek Road in the northern portion of the site. The Yankee Creek Road reserve divides the property into two sections, and contains an unformed road that is no longer utilised for public road access.

The site holds Yankee Creek which traverses the southern portion of the property and Mullumbimby Creek borders the northern boundary. The property also contains other minor drainage line across an undulating landscape.

The subject site is depicted in greater detail in the below images and on the attached site plans and assessment reports.



Subject Site (Source: NSW SIX Maps)

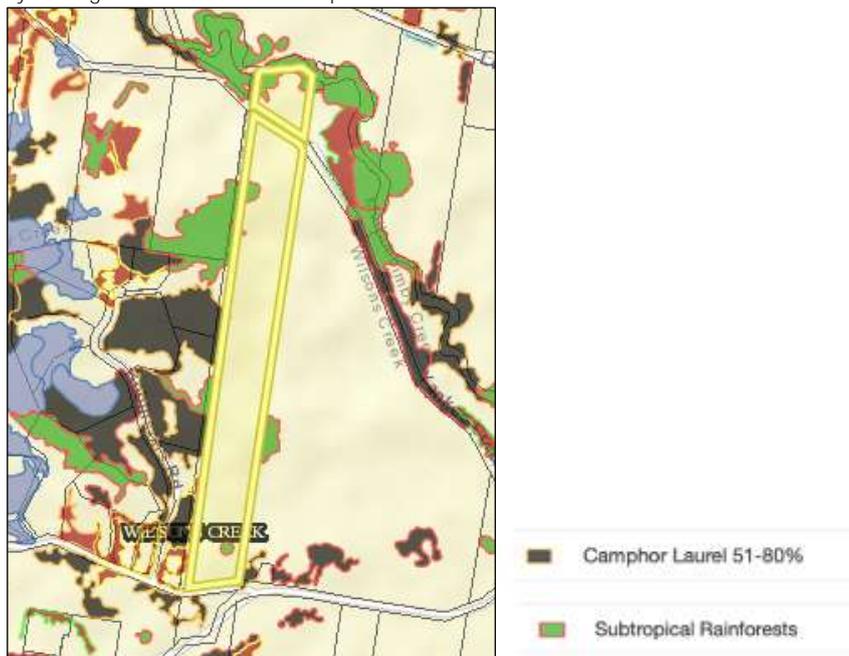
Stage 1: Driveway Access Works for Dwelling Site  
 Stage 2: Four (4) Rural Tourist Cabins

## 2.4 Environmental characteristics

The subject property contains mostly cleared grazing grassland with some small patches of vegetation, with the most significant area being the riparian corridor of Mullumbimby Creek. The attached Vegetation Management Plan shows the site's vegetation values in more detail.

The following Byron Shire Council environmental mapping extracts depict the vegetation features of the site including current vegetation communities and high environmental value vegetation.

- Byron Vegetation Communities map



- High Environmental Value (HEV) vegetation map



Stage 1: Driveway Access Works for Dwelling Site  
Stage 2: Four (4) Rural Tourist Cabins

- NSW Biodiversity Values Map

The property contains two areas that are mapped on the NSW Biodiversity Values Map, in the north of the site within the riparian area of the Mullumbimby Creek and in the south of the site within the riparian area of Yankee Creek.



- Bushfire Prone Land

The site contains bushfire prone land, being Vegetation Category 1, Category 2 and Category 3, as mapped by the NSW State Government.



Bushfire Prone Land (Non-EPI)

- Vegetation Category 1
- Vegetation Category 2
- Vegetation Category 3
- Vegetation Buffer

## 3. THE PROPOSED DEVELOPMENT

*Section 3 - This section of the report describes the overall concept and also lists the objectives of the proposal in an environmental planning context.*

### 3.1 Objectives of the proposed development

The objectives of the proposed development application are as follows:

- Attain council approval for Stage 1 driveway works to provide suitable vehicular access to the site for farm management as well as in preparation for a forthcoming dwelling house;
- Attain council approval for four (4) rural tourist cabins in a clustered setting in the northern portion of the site, with shared infrastructure on the subject site;
- Provide a suitably scaled rural tourist cabin accommodation that will provide additional income for sustainable economic diversification along with the existing farming land use;
- Respond to State Government and Local Council planning policies regarding rural tourism;
- Service the proposed rural tourist facility with suitable vehicular access and car parking arrangements;
- Manage bushfire risks appropriately and provide suitable bushfire management infrastructure;
- Protect the shire's downstream aquatic ecosystems by implementing a suitable on-site wastewater management system;
- Enhance the site's ecosystems and provide additional resources to implement a large-scale ecological planting within the Mullumbimby Creek riparian corridor;
- Protect the Shire's rural scenic landscapes by implementing a suitable building design with added landscaping; and
- Avoid potential land use conflicts with surrounding land uses and ensure that the proposal does not adversely impact on rural character and surrounding amenity.

### 3.2 The proposed development

The proposed development application contains the following items as shown in the architectural plan set (Appendix A):

- Stage 1 – driveway access road for future dwelling site.
  - Associated earthworks and drainage works.
- Stage 2 - rural tourist accommodation including four (4) cabin buildings:
  - Associated infrastructure including driveway extension, car parking and earthworks;
  - Bushfire management infrastructure;
  - On-site wastewater management system; and
  - Landscaping and ecological enhancement works.

All of the associated infrastructure such as internal driveway, car parking, wastewater management, and water supply will comply with council requirements and other applicable standards and guidelines including NSW RFS standards.

No native vegetation is to be removed around the site of the proposed cabins, and existing native vegetation will be furthermore protected from existing grazing activities. Additional landscaping will be provided for the cabins to improve the aesthetics and privacy of the buildings and utilise suitable species that are endemic to the locality and also not increase bushfire risk to the buildings.

A total of four (4) cabins are proposed, that includes 1 x -2-bedroom cabin and 3 x 1-bedroom cabins located in a clustered format on the property as depicted in the plan set. Cabin 1 is designated for disabled access with suitable internal facilities and access arrangements to a disabled car park, as demonstrated in the plan set. This includes a rampway access and suitable pathway from the car parking space adjacent to the cabin building.

Stage 1: Driveway Access Works for Dwelling Site  
Stage 2: Four (4) Rural Tourist Cabins

The rural tourist cabins are described as follows:

- 60 sqm gross floor area with 21.2 sqm covered verandah
- All have a northerly aspect towards country-side views;
- Buildings utilise post in ground footings,
- Gable roof design with 14-degree pitch made from colorbond steel;
- BASIX certification with all items implemented (Appendix B);
- Bushfire management including land management, access and water supply (Appendix C); and
- On-site wastewater management system (Appendix D).

The attached plan set also described the details of the design characteristics, materials and finishes, as well as the nominated BASIX certificate requirements.

The following site plan extract depicts the proposed rural tourist facility, with the cabins set below the top of the ridgeline, while the proposed landscaping and bushfire management provisions are detailed within the attached Vegetation Management Plan.



Extract from plan set (Appendix A)

Stage 1: Driveway Access Works for Dwelling Site  
Stage 2: Four (4) Rural Tourist Cabins

## 4. STATUTORY PLANNING ASSESSMENT

*Section 4 - This section examines the consistency of the proposed development with the provisions of relevant planning policies, objectives, statutory instruments and legislation.*

In accordance with the NSW Environmental Planning and Assessment Act, the proposal is considered under the following sections of this report:

- 4.1 - State Environmental Planning Policies
- 4.2 - Local Environmental Plan
- 4.3 - Development Control Plan
- 4.4 - Environmental Legislation
- 4.5 - S4.15 Evaluation

### 4.1 State Environmental Planning Policies

The following NSW State Environmental Planning Policies (SEPPs) are addressed:

#### *4.1.1 SEPP (BASIX)*

The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.

The proposal is accompanied by a BASIX Certificate shown within Appendix B that shows that all of the proposed cabin buildings attain sustainable building design standards, including NatHERS certification.

All BASIX certificate requirements will be fully implemented and are demonstrated on the attached plan set.

#### *4.1.2 SEPP (Biodiversity and Conservation) 2021*

Chapter 3 Koala habitat protection 2020

##### 3.1 Aims of Policy

*This Chapter aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—*

*(a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and*

*(b) by encouraging the identification of areas of core koala habitat, and*

*(c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.*

The proposed Rural Tourist Cabins are considered to be consistent with the aim of the policy. The proposal does not obstruct or impact upon areas of Koala habitat. There are no areas of Koala habitat on the subject site.

##### 3.2 Definitions

*potential koala habitat means areas of native vegetation where trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.*

*Core koala habitat means an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population.*

The site does not contain any potential or core koala habitat, as demonstrated on Council mapping and as confirmed during detailed site inspections.

### 3.3 Land to which Chapter applies

*This Chapter applies to land in the following land use zones, or an equivalent land use zone, in a local government area specified in Schedule 1 of State Environmental Planning Policy (Koala Habitat Protection) 2021, but not if the local government area is marked with an \* in that Schedule—*

- (a) Zone RU1 Primary Production,*
- (b) Zone RU2 Rural Landscape,*
- (c) Zone RU3 Forestry.*

The proposal is located within a rural zone and therefore the Koala SEPP applies.

### 3.5 Land to which this Part applies

*This Part applies to land—*

- (a) that is land to which this Chapter applies, and*
- (b) that is land in relation to which a development application has been made, and*
- (c) that, whether or not the development application applies to the whole, or only part, of the land—*
  - (i) has an area of more than 1 hectare, or*
  - (ii) has, together with adjoining land in the same ownership, an area of more than 1 hectare.*

The Koala SEPP applies to the proposal, as the property is greater than 1 hectare in size.

### 3.6 Step 1—Is the land potential koala habitat?

*(1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies, the council must be satisfied as to whether or not the land is a potential koala habitat.*

*(2) The council may be satisfied as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification.*

*(3) If the council is satisfied—*

- (a) that the land is not a potential koala habitat, it is not prevented, because of this Chapter, from granting consent to the development application, or*
- (b) that the land is a potential koala habitat, it must comply with section 3.7.*

In accordance with the habitat definitions under the SEPP, the site does not contain any potential Koala habitat, while the site is also not located within the Byron Koala Coastal Planning Area and no detailed assessment is required under that applicable management plan.

### 4.1.3 SEPP (Resilience and Hazards) 2021

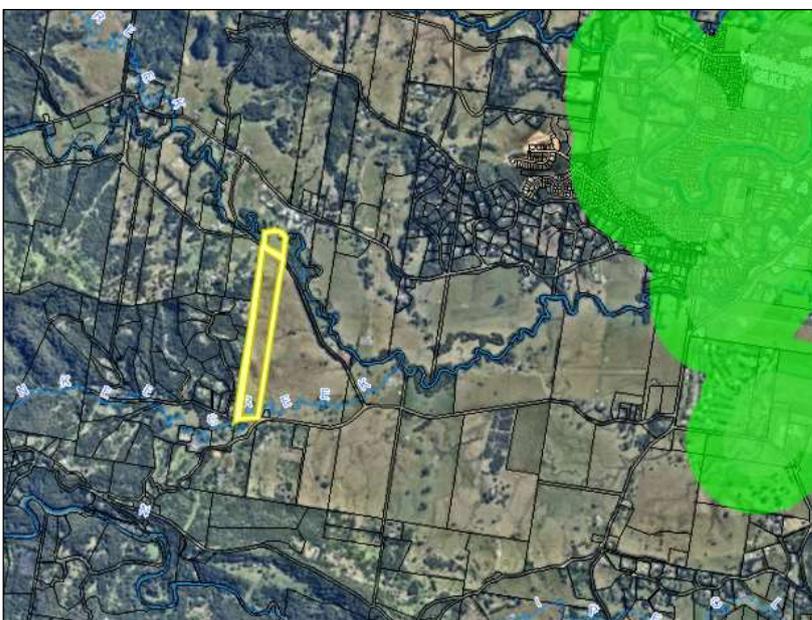
#### Chapter 2 Coastal Management

##### 2.1 Aim of Chapter

*The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The subject site is not located within a coastal management mapped area and no further investigation is required.



SEPP Coastal Management 2018 – Coastal Environment Area

#### Chapter 4 Remediation of land

##### 4.1 Object of this Chapter

- (1) The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.*
- (2) In particular, this Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—*
  - (a) by specifying when consent is required, and when it is not required, for a remediation work, and*
  - (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
  - (c) by requiring that a remediation work meet certain standards and notification requirements.*

The proposal achieves the objectives of Chapter 4 Remediation of land.

#### 4.6 Contamination and remediation to be considered in determining development application

Appendix E contains a Land Use History document, that including a Statutory Declaration regarding known land use history, location of historic cattle dip sites in the locality and historic aerial photographs. From this evidence it is clear that the site has not been utilised previously for any land use that may constitute land use contamination, and has since European settlement been utilised for farming, solely for dairy cattle grazing and beef cattle grazing. There are no historic buildings on the site, and there is no evidence of banana growing activities on the site. In regards to Chapter 4 Remediation of land, it is considered with all available evidence that the site of the proposal is not contaminated land and that additional soil testing is not warranted in this case.

#### 4.1.4 SEPP (Primary Production) 2021

##### Chapter 2 Primary production and rural development

##### 2.1 Aims of Chapter

*The aims of this Chapter are as follows—*

- (a) to facilitate the orderly economic use and development of lands for primary production,*
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,*
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,*
- (e) to encourage sustainable agriculture, including sustainable aquaculture,*
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,*
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.*

The proposal is consistent with the aims of Chapter 2 Primary Production and Rural Development. The proposed Tourist Cabin development facilitates the economic use of lands through appropriate design, by locating cabins in a clustered setting, ensuring the primary production values of the site are maintained. The proposal reduces the potential for land use conflicts by locating the proposed cabins outside any buffers to nearby land uses of potential impact.

##### 2.7 Objects of Part – State significant agricultural land

*The objects of this Part are as follows—*

- (a) to identify State significant agricultural land and to provide for the carrying out of development on that land,*
- (b) to provide for the protection of agricultural land—*
  - (i) that is of State or regional agricultural significance, and*
  - (ii) that may be subject to demand for uses that are not compatible with agriculture, and*
  - (iii) if the protection will result in a public benefit.*

Parts of the site are mapped as Regionally Significant Farmland; however, the site does not contain areas of state significant farmland.

The proposal does not compromise the ability for the site to be utilised for suitable agricultural land uses, in a mixed land use format. The revenue created by the facility and the incentive of the visitors contribute important inputs to the primary production abilities on the site and restoring natural systems.

The small-scale rural tourist facility is unlikely to reduce the agricultural capability of the land with the cabins occupying a small footprint on the overall site, leaving ample room available for small scale agricultural production.

## 4.2 Local Environmental Plan

The Byron Local Environmental Plan 2014 (BLEP 2014) is the principal planning instrument applying to land within Byron Shire other than in Deferred Matter areas, where the Byron Local Environmental Plan 1988 applies. The deferred matter areas on the site have already been re-zoned via the Council environmental zones process.

### 4.2.1 Byron Local Environmental Plan

The subject property is primarily mapped as containing Zone RU2 – Rural Landscape with an area of RU1 – Primary Production in the south of the site and a small area of C2 – Environmental Conservation zoned land along the site's northern boundary (refer 4.2.4 Zoning).

The development application is seeking consent for a proposal that is entirely located within Byron LEP 2014 zoning and therefore this assessment addresses the consistency of the proposal with the Byron LEP 2014.

This chapter identifies the applicable provisions of the BLEP 2014 relating to the proposed development. The consistency of the proposal with such provisions is also discussed.

### 4.2.2 BLEP 2014 Objectives

Clause 1.2 of the Byron Local Environmental Plan 2014 provides the aim and objectives of the plan.

The proposal is considered consistent with objectives as it enhances social and economic well-being and enhances ecological processes.

The proposed development is considered consistent with the guiding principles of the BLEP 2014.

### 4.2.3 BLEP 2014 Maps

Relevant LEP maps applicable to the subject application are as follows:

- Zoning – refer Section 4.2.4 below
- Building Height – 9 metres above NGL



- Floor Space Ratio – Not Applicable



- Drinking Water Catchment – Not Applicable

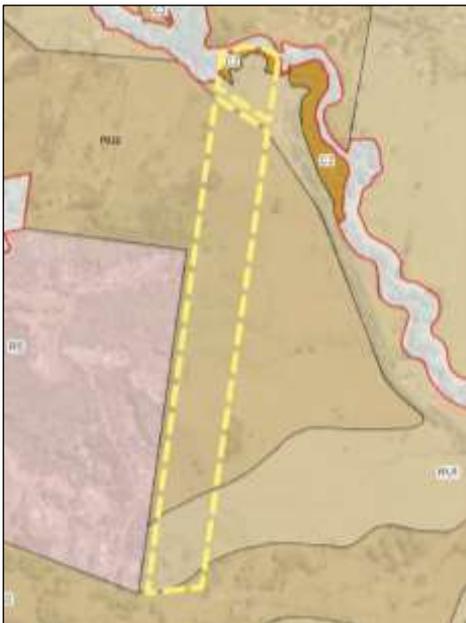


- Heritage – I185 Power Station



#### 4.2.4 BLEP 2014 Zoning

All building components of the proposal are located within Zone RU2 – Rural Landscape of the Byron LEP 2014, as depicted in the following zone map extract.



Byron LEP 2014 Zoning Map

The proposal contains components in both Zone RU2 and Zone C2, with the nominated ecological works comprising the area within Zone C2, with the objectives of the relevant zone are addressed as follows:

#### Zone RU2 - Rural Landscape

##### *Objectives of zone*

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

The proposal does not raise any significant issues regarding the viability of sustainable primary industries on the site. The proposal utilises a relatively small footprint on the site and leaves ample space for small-scale agricultural activities suitable for the size of the property. The proposal aligns with the owner's intent to enhance the natural resource base of the property.

- To maintain the rural landscape character of the land.*

The proposal is located in a suitable portion of the rural property and has considered potential impacts on rural character and existing amenity values. One of the main objectives of the proposal is to maintain the rural landscape and preserve the scenic amenity of the site.

- To provide for a range of compatible land uses, including extensive agriculture.*

The property is well positioned to accommodate the proposed tourist accommodation, ecological enhancement and small-scale agricultural activities.

- To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.*

The proposal directly addresses this objective of the zone. The proposal will enable the owners to allocate additional resources to environmental protection & enhancement and promote environmental conservation to guests and the local community while carrying out their overall vision for the property.

- To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.*

The proposed buildings have been well designed and located in a clustered format to reduce any adverse impacts on the rural scenic amenity of the locality. Additional landscaping will also improve the visual aspect of the proposal.

#### Zone C2 - Environmental Conservation

##### *Objectives of zone*

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*

The proposal designates the riparian corridor in the north of the site as a vegetation management zone to undertake ecological works, in the form of weed management and rainforest plantings. These proposed works within this zone are highly consistent with the objective of the zone. Environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works.

- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

The proposal will not adversely impact the area contained within the C2 zone.

#### 4.2.5 BLEP 2014 Special Provisions

This section identifies special LEP provisions that are applicable to this development application.

##### Clause 4.3 - Height of buildings

*The objectives of this clause are as follows:*

- (a) to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet,*
- (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,*
- (c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*

The BLEP 2014 height of buildings map depicts the site as having a 9-metre height limit for buildings above the natural ground level.

The proposed visitor cabins comply with this provision as shown in the attached plan set.

##### Clause 5.10 - Heritage conservation

*The objectives of this clause are as follows—*

- (a) to conserve the environmental heritage of Byron,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The proposal is not located within a heritage conservation area, while the closes heritage item being the old power station off Wilsons Creek Road will not adversely be impacted by the proposal.

##### Clause 5.21 - Flood planning

*The objectives of this clause are as follows—*

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

The property is not mapped on Council's flood prone land 1 in 100 year flood map. The Yankee Creek and Mullumbimby Creek areas on the subject site experience flooding events, which are located well away from the proposed cabins.

The public road access at Yankee Creek Road contains a causeway that does flood which is further addressed within Appendix F – Engineering Services Report.

## Clause 6.2 – Earthworks

*The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

The proposal requires on-site earthworks for various components including;

- Driveway construction (Stage 1 and Stage 2) and car parking (Stage 2);
- Building foundations; and
- Services installation including OSMS.

The proposed earthworks are able to be adequately managed and will not have any significant detrimental impact on the environment. A soil and erosion management plan will be implemented for the construction phase of the project.

## Clause 6.6 - Essential Services

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:*

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

- Water supply will be achieved by means of roof water harvesting and water tank storage as depicted on the plan set.
- Stormwater management will occur in accordance with Council requirements for stormwater management. An overflow drainage pit will be installed for the on-site water tanks.
- Electricity and telecommunications services are currently available to the property with services to be connected to the cabins to be undertaken by qualified professionals.
- Appendix D provides the details of the wastewater management system proposed which will be undertaken in accordance with Council design standards. A S68 Application is made to Council for the installation of the OSMS.
- Suitable vehicle access complying with Council requirements and NSW RFS requirements will be provided including bushfire turn-around.

## Clause 6.8 - Rural and nature-based tourism development

*(1) The objective of this clause is to ensure that tourism development in rural and natural areas is small scale and does not adversely impact on the agricultural production, scenic or environmental values of the land.*

The proposal has been designed in terms of layout and associated works, to be consistent with the objective of Clause 6.8. The proposal for four (4) rural tourist cabins is small-scale that can be operated by the owner of the site. The future dwelling on the site is to be included in a forthcoming development application. The cabins utilise a small area of the site that will not adversely impact upon the overall agricultural production values of the land. The ecological attributes of the site will be

enhanced with the VMP works on the site. The cabins have been located on the northern side of a ridge, below the top of the ridgeline to reduce visual impacts and will be supported with additional landscape plantings.

*(2) This clause applies to land in the following zones:*

*(a) Zone RU1 Primary Production,*

*(b) Zone RU2 Rural Landscape.*

The site of the proposed cabins is located entirely within an area of Zone RU2 – Rural Landscape.

*(3) Development consent must not be granted to tourism development on land to which this clause applies unless the consent authority is satisfied that:*

*(a) there is, or will be, adequate vehicular access to and from a road, other than a classified road, taking into account the scale of the development proposed, and*

The proposal includes suitable vehicular access connecting to Yankee Creek Road, with details provided in the attached engineering services report. Appendix F provide detailed design drawings of the proposed access road.

*(b) the development is small scale and low impact, and*

The proposal can be managed by the owner of the site, and is low impact in terms of overall footprint of works and the resulting environmental impacts are minimal.

The proposal includes a total of 5 bedrooms, 1 x two bedroom cabins and 3 x one bedroom cabins, which is suitable for the size of the property and within the maximum permitted by the Byron DCP 2014.

*(c) the development is complementary to the rural or environmental attributes of the land and its surrounds, and*

The proposed four cabin rural tourist accommodation is considered complimentary to existing rural and environmental values of the site.

The proposed buildings have been located to make use of the site's natural aspect and solar access as well as minimise visibility from public viewing areas.

*(d) the development will not have a significant adverse impact on agricultural production, amenity or significant features of the natural environment.*

The proposed new buildings and associated infrastructure are clustered together in a small footprint on the overall site. The proposal will not generate significant adverse impacts on the rural and scenic amenity of the locality.

*(4) Development consent must not be granted to development for the purpose of tourism development on land to which this clause applies unless:*

*(a) a lawfully erected dwelling house or dual occupancy (attached) is situated on the land, or*

*(b) a dwelling house may be erected on the land under this Plan.*

The site benefits from a dwelling entitlement, with a forthcoming Development Application for the proposed dwelling.

*(5) Development consent must not be granted to development under subclause (4) if the development:*

*(a) includes an ancillary caretaker's or manager's residence, or*

*(b) is for the purpose of more than 1 bed and breakfast accommodation.*

The proposal is consistent with the clause as the proposal does not propose an ancillary dwelling nor is any bed and breakfast accommodation included.

*(6) In this clause:*

*small scale means a scale that is small enough to be generally managed and operated by the principal owner living on the property.*

The proposal is considered to be 'small scale', able to be managed by the principal owners who will reside in the future dwelling proposed on the site within the subsequent DA.

*tourism development includes, but is not necessarily limited to, development for any of the following purposes:*

*(a) bed and breakfast accommodation,*

*(b) camping grounds,*

*(c) farm stay accommodation,*

*(d) eco-tourist facilities,*

*(e) home industries that provide services, or the sale of goods, on site to visitors,*

*(f) information and education facilities,*

*(g) restaurants or cafes,*

*(h) rural industries that provide services, or the sale of goods, on site to visitors.*

The proposal is defined as a type of rural 'tourism development' under the BLEP 2014. The proposal seeks consent as Rural Tourist Cabins under the BLEP 2014.

## 4.3 Development Control Plan

The Byron DCP 2014 applies to the proposed development, being entirely located within a Byron LEP 2014 zone.

### 4.3.1 Byron Development Control Plan 2014

Applicable sections of the Byron DCP 2014 are listed in the following table, along with a statement of compliance regarding the proposed development application.

Control	Comment	Complies
Chapter B1 Biodiversity	<p>The cabin buildings are not located in a location that triggers any ecological red flags, as demonstrated within the attached Site Plan and VMP plan:</p> <ul style="list-style-type: none"> <li>- Appropriate setback from Mullumbimby Creek, being approximately 250 metres to the nearest cabin.</li> <li>- No threatened species are identified nearby to the proposed cabins.</li> <li>- No large trees are located within the curtilage of the proposed cabins or within the setback control. The closest large trees are located to the west of Cabin 1, which are well setback from the buildings and driveway.</li> <li>- No Koala habitat is located on the site.</li> <li>- No flying fox camps are located on the site.</li> <li>- No wetlands are located on the site.</li> <li>- There is HEV vegetation to the west of the proposed cabins while this area will not be adversely impacted, it is currently accessed and impacted by cattle while this proposal includes the restriction of cattle into that area.</li> <li>- No NSW Biodiversity Values map areas are impacted.</li> </ul> <p>The proposal includes a Vegetation Management Plan for significant ecological protection and enhancement works on the subject site, as part of the rural tourist cabins project, within the designated Mullumbimby Creek Riparian Zone (Appendix G).</p>	Yes
Chapter B3: Services	<p>The site contains all the necessary services to supply the proposed cabins, as detailed within Section 4.2 of this report.</p> <p>The proposal does not interfere with existing Essential Energy infrastructure nor does it interfere with any Council reticulated services or other service easements.</p>	Yes

Control	Comment	Complies
Chapter B4: Traffic Planning, Vehicle Parking, Circulation and Access	<p>The proposal complies with Chapter B4, by providing adequate car parking arrangements and vehicle access to the site of the proposed new facility.</p> <p>The local public road network is regarded as being suitable to support the proposal. A contribution will be made to Council to allow for local road improvements.</p> <p>The proposed new cabins and the proposed future dwelling will utilise the existing driveway connecting to Yankee Creek Road in the northern boundary frontage.</p> <p>On-site car parking will be provided for the rural tourist cabins, including one parking space for persons with disability. All car parking will be design in accordance with engineering standards.</p> <p>Appendix F contains the Engineering Services Report.</p>	Yes
Chapter B6: Buffers and Minimising Land Use Conflict	The proposal does not raise any significant concerns in regards to buffers from any nearby land uses in the surrounding locality.	Yes
Chapter B8: Waste Minimisation and Management	<p>The proposal will utilise an appropriate on-site waste and recycling bin storage system, that will ensure that any waste generated by the proposal will be adequately managed.</p> <p>A SWMMP can be provided on request or at the construction certificate stage.</p>	C.C. Stage
Chapter B9: Landscaping	<p>A concept landscaping plan has been provided within the attached plan set. A more detailed landscaping plan can be provided at the Construction Certificate stage.</p> <p>It is anticipated that the landscape plantings will utilise endemic plant species to provide for screening and privacy for the rural tourist cabins as well as providing for additional privacy for visitors.</p> <p>Landscape plantings will also comply with PFBP 2019.</p>	Yes

Control	Comment	Complies
Chapter B13: Access and Mobility	<p>The proposal dedicates Cabin C4 as the disabled access cabin, and is provided with:</p> <ul style="list-style-type: none"> <li>- Disabled access car parking adjacent to the cabin;</li> <li>- All access pathway and ramp into the cabin</li> <li>- Internal fixtures and design layout to comply with all access design standards.</li> </ul>	Yes
Chapter B14: Excavation and Fill	<p>The proposal requires some earthworks for the proposed driveway in Stage 1 and Stage 2, building footings for each cabin and the installation of ancillary services such as wastewater management and water supply.</p> <p>All earthworks will be subject to proper management of soil and drainage. Sedimentation management will be implemented during construction works.</p>	Yes
Chapter C1: Non-Indigenous Heritage	<p>The site does not contain any listed heritage items and is not located within a heritage conservation area, and no further investigation is required.</p>	Yes
Chapter C2: Areas Affected by Flood	<p>The property is not mapped as containing flood prone land.</p> <p>A Flood Management Plan is a worthwhile addition, in terms of the regional flooding that the area can experience, and informing visitors of flood warnings to allow for appropriate preparations.</p>	Yes
Chapter C3: Visually Prominent Sites, Visually Prominent Development and View Sharing	<p>The site of the proposed cabins is will be buffered from public viewing areas by topography. Additional landscaping will also provide for additional screening and privacy. The cabins are sited below the top of the ridgeline, with a northerly aspect, there are limited viewpoints of the cabins in this direction.</p>	Yes
Chapter C4: Development in a Drinking Water Catchment	<p>The subject site is not located within a mapped drinking water catchment area.</p>	Yes

Control	Comment	Complies
Chapter D3: Tourist Accommodation		
D3.2 General Provisions		
<p>D3.2.1 Location and Siting</p> <p><i>Objectives</i></p> <p>1. To ensure that the siting and design of tourist accommodation does not conflict with important ecological characteristics or conservation values of the site or the Shire, and respects the natural systems and values of its location and surrounds.</p> <p>2. To ensure that decisions relating to siting of development are consistent with the Objectives and provisions of Chapter B6 Buffers and Minimising Land Use Conflict.</p> <p><i>Performance Criteria</i></p> <p>1. The siting, design and operation of tourist accommodation and associated development must not adversely affect important conservation values, ecological systems or characteristics of the site or the Shire. Development must respect and contribute to the natural environmental systems and values of its location and surrounds.</p> <p>2. Development applications for proposals located in or near ecologically sensitive areas, areas of high conservation values and/ or important natural features or sites must include a full description of those ecological, conservation and natural values and systems, together with a comprehensive, professional assessment of the impact of the proposed development thereon. The impact assessment must include an evaluation of the effectiveness and sustainability of any proposed amelioration and management measures.</p>	<p>The plan set shows that the siting and design of the proposal does not conflict with ecological or agricultural values recognised on the subject site.</p> <p>The siting, design and operation of the proposed cabins will not generate land use conflicts with surrounding land uses, and is compliant with Chapter B6.</p> <p>The cabins are located on historically cleared land, that now contains mostly open grasslands. The proposal will allow the owners to undertake ecological enhancement of the site. Existing vegetation to the west of the cabins will also be protected by restricting cattle access, which has already resulted in some tree dieback of native trees.</p> <p>This SEE report serves as an assessment of all potential environmental impacts associated with the proposal.</p> <p>The attached Vegetation Management Plan details the proposed restoration works on the site within the designated Mullumbimby Creek Riparian Zone.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Comment	Complies
<p><i>3. Determination of the siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.</i></p>	<p>The proposal has considered surrounding land uses with potential for land use conflict, including land uses such as farming, buildings such as dwellings and the nearby school.</p>	<p>Yes</p>
<p>D3.2.3 Character and Design in Rural Zones</p> <p><i>Objectives</i></p> <p><i>1. To ensure that tourist accommodation in Rural Zones is compatible with the surrounding landscape and with the character and amenity of development in the locality.</i></p> <p><i>2. To implement the relevant Aims, Guiding Principles and provisions of the Byron Rural Settlement Strategy 1998.</i></p> <p><i>Performance Criteria</i></p> <p><i>1. Tourist accommodation development in Zones RU1 and RU2 must be compatible in character and amenity with the surrounding rural and natural andscape, and with development in the locality.</i></p> <p><i>2. The provisions of Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones apply to all tourist accommodation development in zones RU1 and RU2 in the same way they apply to residential accommodation in Rural Zones.</i></p> <p><i>3. All development to which this Chapter applies in Rural Zones and must be low scale consistent with the relevant Aims, Guiding Principles, Best Practice Guidelines and Performance Standards contained in the Byron Rural Settlement Strategy 1998</i></p>	<p>The proposed cabins are of a suitable design that reflects the rural character of the site. The proposed cabins are sited in a single cluster in order to not generate significant impacts on the rural character.</p> <p>The proposal is considered consistent with the still relevant components of the BRSS 1998 while the BLEP 2014 and DCP 2014 are the main applicable planning provisions applicable.</p> <p>The proposed rural tourist accommodation is considered to be compatible with the rural location, being located within Zone RU2.</p> <p>The proposal is consistent with Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones.</p> <p>The proposal is a low scale development that can be managed by the resident / owner of the property.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Comment	Complies
<b>D3.3 Specific Provisions</b>		
<p><b>D3.3.4 Rural Tourist Accommodation and Farm Stay Accommodation</b></p> <p><i>Objectives</i></p> <p>1. To ensure that rural tourist accommodation does not detract from the rural and natural character of its locality.</p> <p>2. To ensure that rural tourist accommodation does not adversely affect the conduct and productivity of agricultural operations on the site or nearby lands.</p> <p>3. To facilitate and support the establishment of low scale farm tourism as a secondary business to primary production, where farm stay accommodation is proposed.</p> <p><i>Performance Criteria</i></p> <p>1. The development must be located and operated so that it does not:</p> <p>a) adversely affect the conduct and productivity of agricultural operations on the site;</p> <p>b) create potential for conflict with adjoining land uses;</p> <p>c) disrupt environmental enhancement projects on the land; and</p> <p>d) impact on the ecological or environmental values of the land; and</p> <p>e) conflict with buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.</p>	<p>The proposed visitor cabins utilise high-quality design and materials that complement other rural buildings and do not detract from the character of the Alidenes Road locality.</p> <p>The proposed cabins are located within a single cluster, leaving ample space for small-scale sustainable agriculture on the property.</p> <p>The proposal is considered to be a type of rural tourist and visitor accommodation.</p> <p>The proposal does not impact on any existing or future proposed agricultural operations on the site.</p> <p>The proposal is unlikely to generate any land use conflicts with nearby land uses.</p> <p>The proposal includes provision for significant ecological enhancement works on the site.</p> <p>The proposal will not adversely impact on any ecologically sensitive areas on the site. The proposal will allow for greater ecological outcomes to be achieved with the attached VMP.</p> <p>The proposal is considered to be compliant with Chapter B6.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Comment	Complies
<p><i>2. Rural tourist accommodation must be designed and located to be compatible with the surrounding rural and natural landscape. Where new buildings are proposed to be constructed for the purpose of rural tourist accommodation such buildings are to be clustered and located in proximity to the primary dwelling house on the lot.</i></p>	<p>The proposed cabins are compatible with the surrounding rural and natural landscape. The buildings are clustered and utilise the same access driveway as the proposed future dwelling.</p>	<p>Yes</p>
<p><i>3. The development is to be low scale and designed and located to be compatible with the surrounding rural environment and of minimal environmental impact.</i></p>	<p>The proposal is low scale and can be operated by the landowners who are seeking to diversify the farming property with sustainable land uses.</p>	<p>Yes</p>
<p><i>4. Car parking for guests must be provided in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.</i></p>	<p>The car parking for cabin guests will conform with Council requirements and Australian Standards.</p>	<p>Yes</p>
<p><i>5. Provision of recycling and waste management facilities must be in accordance with Chapter B8 Waste Minimisation and Management.</i></p>	<p>Waste minimisation and management will be part of the proposal including the provision of suitable waste bins and access to council waste services.</p>	<p>Yes</p>
<p><i>6. The development must observe the road and boundary setback requirements specified in Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones (D2.2.2) and the character and visual impact requirements (D2.2.3).</i></p>	<p>The proposal complies with applicable boundary setback requirements and conforms with siting requirements to not be positioned acutely on the top of a ridge.</p>	<p>Yes</p>
<p><i>7. Rural tourist accommodation to be suitably sited in accordance with the requirements of Chapter C3 Visually Prominent Sites, Visually Prominent Development &amp; View Sharing.</i></p>	<p>The proposed cabins are designed, clustered and landscaped to improve visual impact outcomes.</p>	<p>Yes</p>
<p><i>8. Environmental reparations are required as a part of any Rural Tourist Development. Such repairs are to be focused on the expansion of wildlife corridors, repairing and reconnecting vegetation remnants and enhancing riparian areas and habitat for threatened species and endangered plant communities.</i></p>	<p>A core component of the proposal is the Vegetation Management Plan's ecological works proposal within the Mullumbimby Creek Riparian Zone.</p> <p>This ecological works is located within the Zone C2 are of the site and will also provide ample benefits in supporting the other ecological works already conducted by the Shearwater School and other neighbours.</p>	<p>Yes</p>

Stage 1: Driveway Access Works for Dwelling Site  
 Stage 2: Four (4) Rural Tourist Cabins

Control	Comment	Complies								
<p><i>Prescriptive Measures</i></p> <p>1. Rural tourist accommodation can incorporate up to 12 bedrooms collectively and accommodate a maximum of 2 persons per bedroom, with overall accommodation densities in accordance with Table D3.1 below:</p> <table border="1" data-bbox="264 573 608 685"> <caption>Table D3.1 – Density of Rural Accommodation</caption> <thead> <tr> <th>Land Size</th> <th>Max Number of Bedrooms</th> </tr> </thead> <tbody> <tr> <td>0 – 3 ha</td> <td>3</td> </tr> <tr> <td>1 additional bedroom for every 1.5 ha to a maximum of 12 bedrooms</td> <td></td> </tr> <tr> <td>20 ha or greater</td> <td>12</td> </tr> </tbody> </table> <p>2. Rural tourist accommodation is to be designed with the following features.</p> <p>(a) Each rural tourist accommodation structure is to have a gross floor area not more than 60 m<sup>2</sup> comprising a maximum of two (2) bedrooms, a kitchenette and bathroom/ toilet amenities. Rural tourist accommodation is to open up onto outdoor recreation/living areas with access to winter sun and summer shade, and where possible orientated to take advantage of views of the surrounding hinterland, rural landscapes, the Pacific Ocean and/or other natural features.</p> <p>b) All weather car parking must be provided on-site in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access. The paving of car parking areas is not encouraged (except where roads need to be on more steeply sloping lands), rather these areas should be a pervious surface such as hailstone or gravel or other forms of permeable paving to an all-weather standard to ameliorate stormwater runoff.</p> <p>c) Provide external pedestrian access between buildings and facilities associated with the development, including car parking. The access must comprise connecting pathways or access balconies with an all-weather surface and must be integrated with the overall landscape plan for the development. Where feasible, access pathways between buildings and parking areas should be covered to provide weather protection.</p>	Land Size	Max Number of Bedrooms	0 – 3 ha	3	1 additional bedroom for every 1.5 ha to a maximum of 12 bedrooms		20 ha or greater	12	<p>The DCP 2014 Prescriptive Measures are the principal development control applicable to rural tourist cabins capability on rural zoned land.</p> <p>The proposal results in a total of 4 rural tourist cabins with a total of 5 bedrooms.</p> <p>In accordance with the prescriptive measure, 18.6-hectare site is able to support a maximum of twelve (11) bedrooms, and therefore the proposal is well below this maximum.</p> <p>The proposed cabin buildings do not exceed;</p> <ul style="list-style-type: none"> <li>- 60 sqm internal area,</li> <li>- 2 bedrooms, or</li> <li>- more than one kitchen and bathroom/toilet amenities.</li> </ul> <p>The buildings have excellent access to outdoor environments and a high level of solar access with a northerly view and elevated position on the site.</p> <p>Suitable car parking will be provided with all-weather surface in accordance with Chapter B4. Car parking spaces are provided alongside each cabin, with an additional car parking facility provided at the base of the ridge.</p> <p>The proposal will contain suitable short pedestrian walkways and access to cabins from car parking areas, with an additional car-parking area to the south-east of the cabins.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Land Size	Max Number of Bedrooms									
0 – 3 ha	3									
1 additional bedroom for every 1.5 ha to a maximum of 12 bedrooms										
20 ha or greater	12									

Stage 1: Driveway Access Works for Dwelling Site  
Stage 2: Four (4) Rural Tourist Cabins

Control	Comment	Complies
<p><i>d) Be designed and constructed to minimise noise and vibration impacts on occupants of adjoining or nearby dwellings or buildings.</i></p>	<p>The proposal is designed and located to minimise any impacts on adjoining dwellings and rural allotments.</p>	<p>Yes</p>
<p><i>e) A landscape plan to be submitted with the application in accordance with Chapter B9 Landscaping. The plan to incorporate adequate landscaping and screen plantings when viewed from a public road or a dwelling on other land in the locality, and for privacy between rural tourist accommodation structures.</i></p>	<p>The proposal includes landscape plantings as depicted within the attached VMP.</p>	<p>Yes</p>
<p><i>f) Be located so that it may benefit from existing road and physical infrastructure.</i></p>	<p>The proposal benefits from access to existing local road infrastructure.</p>	<p>Yes</p>
<p><i>g) One of the bedrooms within the rural tourist accommodation structure must have disabled access.</i></p>	<p>The proposal includes provisions for disabled access within Cabin 4, as shown in the attached plan set.</p>	<p>Yes</p>
<p><i>h) The siting of rural tourist accommodation must be such that:</i></p>		
<p><i>i) adequate separation distances are incorporated to minimise the potential for land use conflict between the proposed rural tourist facility and existing or potential conflicting land uses such as intensive agriculture, quarries, animal establishments, on adjoining or adjacent land in accordance with Chapter B6 Buffers and Minimising Land Use Conflict;</i></p>	<p>The proposed rural tourist facility is suitably clustered on the site as depicted on the attached plan set.</p>	<p>Yes</p>
<p><i>ii) all rural tourist accommodation is to be located on land having either a North, Northwest, Northeast or Easterly aspect to maximise solar energy collection and minimise energy use;</i></p>	<p>The cabins are designed and sited with a northerly aspect.</p>	<p>Yes</p>
<p><i>iii) rural tourist accommodation is to be arranged in a 'cluster' pattern and located on average no further than 80 metres apart with adequate vegetation screening between for privacy and amenity purposes;</i></p>	<p>The proposal includes all new buildings in a clustered setting, the proposed new cabins are consistent with the requirement, easily contained with an average of 80-metres apart.</p>	<p>Yes</p>

Stage 1: Driveway Access Works for Dwelling Site  
 Stage 2: Four (4) Rural Tourist Cabins

Control	Comment	Complies
<p><i>iv) on-site sewage management to be designed in accordance with Chapter B3 Services:</i></p>	<p>The wastewater management system conforms to Council's wastewater policy.</p>	<p>Yes</p>
<p><i>v) it is located and operated so that it does not adversely affect the conduct and productivity of agricultural operations on the site. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.</i></p>	<p>The proposal is suitably located in terms of land uses within the locality that would require buffering.</p>	<p>Yes</p>
<p><i>3. A vegetation management plan (VMP) is to be submitted with each Rural Tourist Accommodation Development Application detailing where 900 local native trees per cabin or rural tourist residence are to be planted as environmental repair and enhancement for development. VMP's must be prepared by a qualified and experienced bush regenerator (Certificate 4 in Natural Area Restoration / Conservation and Land Management) or ecologist with specific knowledge and experience in Restoration Ecology and in accordance with the Guidelines for VMP/Biodiversity Conservation Management Plan (BCMP)/ Environmental Enhancement Management Plan (EEMPs), available on Council's website.</i></p>	<p>The attached Vegetation Management Plan within Appendix G adheres to the requirements of undertaking 900 local native rainforest trees per cabin building or equivalent regeneration works.</p> <p>The VMP provides a 5-year plan that designates the Mullumbimby Creek Riparian Zone as the area subject to ecological works that will commence with the Stage 2 construction certificate for the cabins.</p> <p>The owner is dedicated to carrying out these required works.</p>	<p>Yes</p>
<p><i>4. All development applications for farm stay accommodation to include suitable details demonstrating that the accommodation is secondary to farming activity on the land.</i></p>	<p>The proposal is not for Farm-Stay accommodation.</p>	<p>Yes</p>
<p><i>5. Night time lighting for outdoor recreational facilities such as tennis courts or sporting facilities is prohibited. All other external lighting should be limited to protect the dark night sky</i></p>	<p>No night time lighting for any outdoor facilities is proposed.</p>	<p>Yes</p>

## 4.4 Environmental Legislation

The following environmental legislation has been considered for the proposed development:

### 4.4.1 Biodiversity Conservation Act 2016

#### Test of Significance

The threatened species test of significance is used to determine if a development or activity is likely to significantly affect threatened species or ecological communities, or their habitats in accordance with the *Biodiversity Conservation Act 2016*. The attached Vegetation Management Plan will enhance the mapped area of NSW Biodiversity Values.

*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,*

The proposal is located within areas of the property that do not require the removal of any native vegetation and do not impact on any threatened species or its habitat. The attached VMP aims to improve habitat for potential threatened species and threatened ecological communities on the site however there are no identified ones existing on the site.

*(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,*

The proposal is located within areas that do not require the removal of any native vegetation and do not impact on any endangered ecological communities.

*(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,*

The proposal is located within areas that do not require the removal of any native vegetation and do not impact on any threatened species or endangered ecological community habitats.

*(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),*

The proposal is located within areas that do not require the removal of any native vegetation and do not impact on any threatened species or endangered ecological community habitats.

*(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 proposal is not considered as a key threatening process nor is it likely to increase any key threatening processes.

#### 4.4.2 National Parks and Wildlife Act 197

The *National Parks and Wildlife Act 1997 (NSW)* is the primary legislation concerning the protection and management of Aboriginal cultural heritage.

The Aboriginal Heritage Information Management System (AHIMS) is a database that contains detailed information on over 93,000 recorded sites and over 13,500 archaeological and cultural heritage assessment reports. Recorded Aboriginal objects and places, and declared Aboriginal Places, are referred to as 'Aboriginal sites' in AHIMS.

An AHIMS search of 200m radius around the subject site resulted in no recognised aboriginal sites or places on the subject site or in the vicinity of the site.



AHIMS Web Services Search

## 4.5 Section 4.15 Evaluation

This section assesses the consistency of the application in relation to the provisions of Section 4.15 Evaluation of the Environmental Planning and Assessment Act, 1979 (as amended).

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

*(1)(a) the provisions of:*

*(i) any environmental planning instrument, and*

*(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

*(iii) any development control plan, and*

*(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

*(v) (Repealed)*

*that apply to the land to which the development application relates,*

The relevant Environmental Planning instruments are addressed as follows:

Applicable SEPPs - refer to section 4.1 of this report.

Local Environmental Plans - refer to section 4.2 of this report.

Development Control Plans - refer to section 4.3 of this report.

Environmental Legislation – refer section 4.4 of this report.

In summary, the proposed development application is considered consistent with the aims of the LEP, the applicable zone objectives and LEP special provisions, and suitably addresses any applicable provisions.

It is understood that the Council is proposing to amend the BLEP 2014 and BDCP 2014 rules regarding rural tourist cabins via a planning proposal, however the current, applicable legislation at time of DA lodgement is complied with and permits the proposal on the subject site in the proposed format.

The proposal is also considered consistent with the aims, objectives and intent of the applicable Byron DCP 2014 development controls. The prescriptive measures of the Byron DCP 2014 are complied with.

This report also demonstrates that the proposal is consistent with the objectives and relevant sections of any NSW State Environmental Planning Policy.

The proposal will also comply with any relevant sections of the National Construction Code, including for persons with disability, building fire safety and other building standards for construction, plumbing, electricity and access.

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

- Natural ecosystems

The proposal has been well-considered in terms of the location of the access driveway and the rural tourist cabins, in terms of existing ecological values on the site. There are minimal to nil adverse impacts on the native ecosystems on the site, with significant benefits sought as part of carrying out the vegetation management plan.

- Rural character and scenic amenity

As demonstrated in the plan set, the proposal utilises a high-quality design and has been located to avoid significant impacts on the rural character of the locality. The cabins are located not on the top of the ridge and will be supplemented with native landscape plantings.

- Social and economic effects

The proposed development is likely to contribute positively to the social and economic circumstances of the property owner, whilst also providing local tradesman work during construction stage and on-going economic benefits from visitors.

Compared to the many un-approved tourist facilities in the shire, this one will carry out mandatory ecological works and also make a contribution to the Council as part of the development.

- Traffic impacts

The additional traffic generation resulting from the proposal is minor given nature of the facility and its operational regime. The local road network can support the minor increase in additional trips on the road as demonstrated within the attached engineering services report.

- Design, scale and density

The proposed development retains the positive elements of the character of the locality as shown in the attached plan set. The design elements and sustainable building materials and methods are highly appropriate for the site and the Byron Shire. The siting of the proposed cabins and associated infrastructure minimises environmental, visual and physical impacts. The scale and density of the proposed on the property is considered appropriate and is consistent with Byron Council provisions and development controls. The cabins are suitably clustered on the subject site and landscape plantings will enhance their visual appearance.

- Bushfire management

The proposed rural tourist cabins are located to benefit from a reasonably low fire risk and suitable bushfire management provisions can be implemented on the subject site.

- Wastewater management

All wastewater generated by the development will be treated and disposed of in an approved manner as described within the specialist report in Appendix D.

- Agricultural capability

The proposal does not diminish the agricultural values of the site, with sustainable farming remaining as one of the core land uses on the property

*(c) the suitability of the site for the development,*

- Site suitability

As demonstrated in this report, the size, shape and location of the site is considered highly suitable for the proposed development. Site attributes are considered conducive to the proposed development:

- the site of the proposed buildings is not subject to any significant extent to natural hazards including flooding, bushfire risk, coastal erosion or land slip;
- no critical habitats or threatened species, populations, ecological communities and habitats are adversely impacted; and
- the cabins can be adequately serviced without major adverse environmental impacts.

The proposed development is considered very compatible with the immediate locality as addressed within this report.

- Suitability of access and parking

The proposal has a suitably located existing access point to the local road system being Yankee Creek Road. Adequate vehicle turning and parking areas are proposed within the site. The proposed driveway can be undertaken to access the property to achieve Council's design guidelines. The access can achieve the requirements of NSW RFS bushfire management and other relevant guidelines and standards.

*(d) any submissions made in accordance with this Act or the regulations,*

Council will place the application on public exhibition and seek submissions.

*(e) the public interest.*

The proposed development provides an appropriate use for the site by proposing a small-scaled rural tourist facility, designed in a clustered setting. The proposal is considered to be in the public interest as it is consistent with current applicable planning policy, objectives and provisions and is not considered to create significant adverse environmental impacts.

## USAGE NOTE

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## APPENDIX A - Architectural Plan Set

## APPENDIX B – BASIX Certificate

## APPENDIX C – Bushfire Assessment Report

## APPENDIX D - On-site Wastewater Management Report

## APPENDIX E – Land Use History

## APPENDIX F – Engineering Services Report

## APPENDIX G – Vegetation Management Plan