

STATEMENT OF ENVIRONMENTAL EFFECTS (SEE)

Proposed Alterations and Additions to existing
Dwelling to create a Dual Occupancy (Attached)

at

177 New Brighton Road,
Ocean Shores 2483

(Lot 101 DP 1092892)

For: Lutz Bendig

Date: 15 August 2023

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1. INTRODUCTION

This Statement of Environmental Effects has been prepared in accordance with the *Environmental Planning and Assessment Regulation 2021*, which requires a Statement of Environmental Effects to indicate the following matters, where relevant to the proposal:

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

This report demonstrates, in the context of relevant Council and State Government Policies and Objectives that the proposal will not generate adverse impacts on the built or natural environments. The report identifies the issues associated with the proposal and addresses mitigation where adverse impacts are likely. The proposal is considered consistent with relevant adopted policies and planning provisions.

This document has been prepared for the use of Byron Shire Council, as the consent authority, for determining a Development Application for proposed Construction of two storey dual occupancy dwelling, attached garage and swimming pool on the site. The document is to be used to assist in the assessment of this Development Application and is not intended to be used for any other purpose.

1.1. Summary

Applicant	Lutz Bendig
Owner	Lutz Bendig
Address	177 New Brighton Road, Ocean Shores
Lot & DP	Lot 101 DP 1092892
Zoning	C2: Environmental Conservation C3: Environmental Management
Site Area	8901m ²
Proposal	Alterations and Additions to existing Dwelling to create a Dual Occupancy (Attached)
Existing Development	Two Storey Dwelling

1.2. Public Notification

As per Byron Shire Council Community Participation Plan, the level of public notification for Dual Occupancy Development is Level 1 – and will require a 14-day notification period.

1.3. Integrated Development

The proposed development is not integrated under any of the legislation listed in 4.46 of the *Environmental Planning and Assessment Act 1979*.

1.4. Previous Development Approvals

A review of Byron Shire Council records details the following development approvals on the property:

Application No.	Description
Development Application No. 2001.245	Dwelling, issued 30/10/2001
Occupation Certificate No. 11.2001/245	Dwelling, issued 11/11/2003
Development Application No. 10.2004.409.1	Boundary Adjustment to provide a bushfire zone to existing dwelling, issued 24/11/2004
Development Application S.96 No. 10.2004.409.2	Section 96 to Modify development consent 10.2004.409.1 (boundary adjustment) to amend the approved allotment sizes, issued 18/08/2005
Development Application No. 10.2008.331.1	Tree removal – Five (5) trees, issued 13/07/2008

2. SITE DESCRIPTION

2.1 Summary

The property is a vegetated, large, and irregular shaped lot, legally described as (Lot 101 on DP 1092892) and situated off New Brighton Road. The land area is 8901m², with an existing dwelling, approximately 233m² in size.

The existing development sits on the northern boundary consists of a timber residence with an attached double garage, accessible via an existing driveway off New Brighton Road.



Figure 1: Aerial Photograph property and locality (Source: NSW Planning Portal)

2.2 Improvements and Land Uses

A two-storey dwelling was erected on the allotment in 2003 and in 2004 a boundary adjustment was made to improve the bushfire protection areas to the west of the existing approved dwelling.

An approved boatshed has also been constructed at the rear of the allotment adjacent to Marshalls Creek.

2.3 Zoning

The subject allotment is located within a C2: Environmental Conservation and within a C3: Environmental Management Zone.

The proposed development is to occur around the existing dwelling and wholly within the C3: Environmental Management Zone.

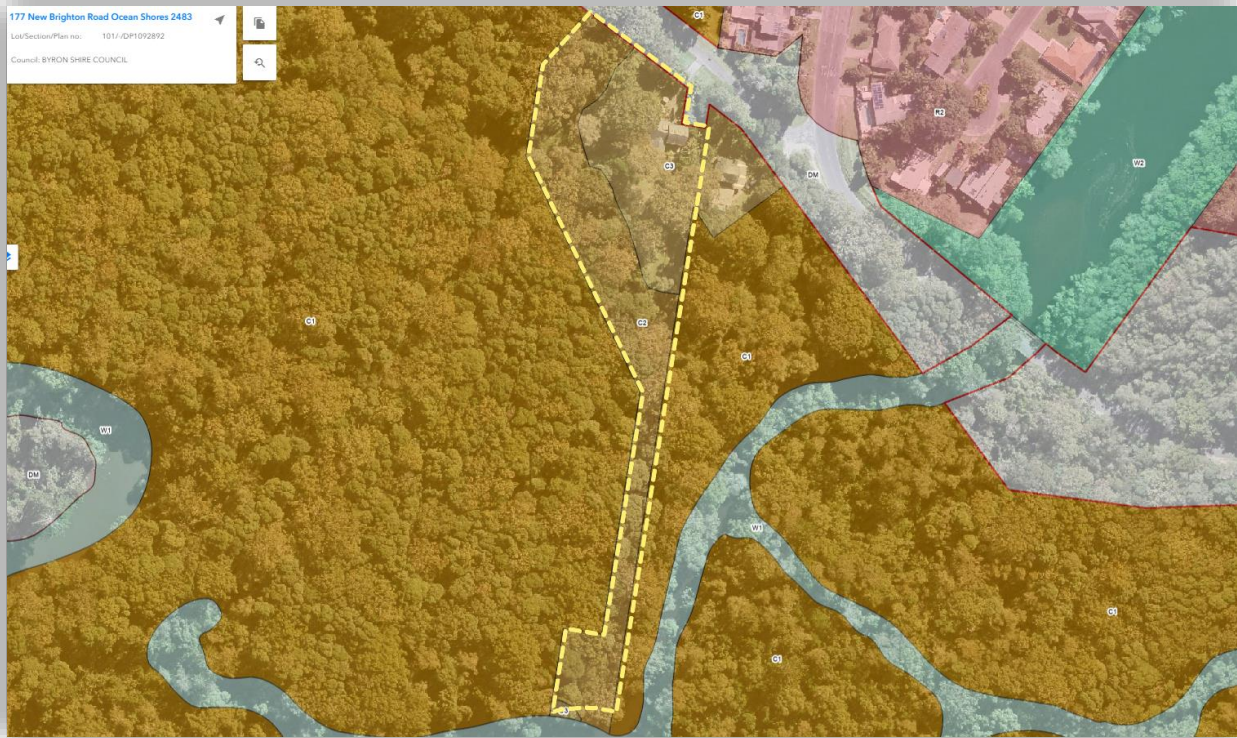


Figure 2: Zone Mapping of 177 New Brighton Road, Ocean Shores
(Source: NSW Planning Portal)

2.4 Surrounding Land Uses

The adjoining lots are conservation areas zoned C1: National Park and Nature Reserves. North of the property is a residential cluster with smaller and denser residential allotments and developments zoned R2: Low Density Residential.

New Brighton Road crosses Yelgun Creek, that disperses into a separate waterway called Marshall's Creek. Marshall's Creek flows behind the property and briefly connects with the southern boundary of the allotment and beyond.

2.5 Services

The allotment has access to the following services:

Water	The property is connected to Council's reticulated water supply
Sewer	The property is connected to Council's sewer system and a connection point is located within the property
Telecommunications	Available to the property via Telstra infrastructure and internet services
Electricity	Accessible from existing transmission lines administered by Essential Energy
Stormwater	Stormwater will be directed to both an existing on-site disposal stormwater system and an additional stormwater disposal trench after stormwater collection for BASIX.
Waste & Recyclables Collection	Available with roadside collection

2.6 Constraints

The property is bounded by the following constraints:

- Bushfire Prone Land
- Acid Sulfate Soils
- Flood Liable/Prone Land

The majority of the site has been nominated as Vegetation Category 1 as indicated on the NSW Planning Portal map below. The existing and proposed development is located within a nominated Vegetation Buffer zone. This application is accompanied by a Bushfire Assessment Report, which is attached to this Statement of Environmental Effects.

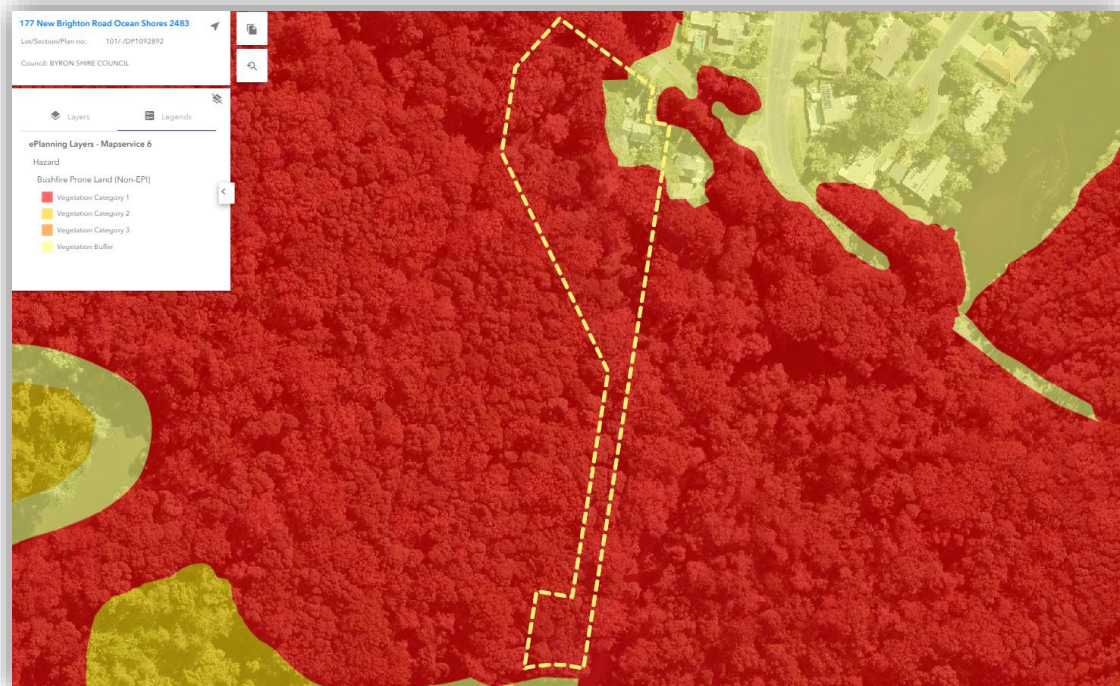


Figure 3: Bush Fire Prone Land Mapping 177 New Brighton Road, Ocean Shores
(Source: NSW Planning Portal)

Byron Shire Council mapping also identifies the site as being within Class 2 and Class 3 Potential Acid Sulfate Soils. The existing and proposed development is located within a Class 3 zone.

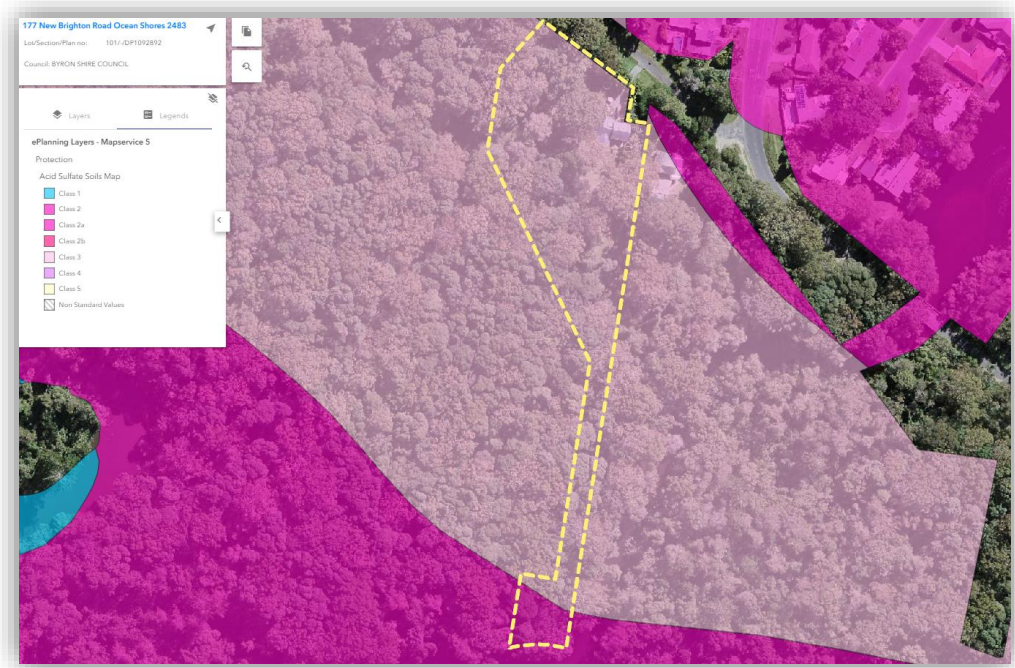


Figure 4: Acid Sulfate Soil Mapping, 177 New Brighton Road, Ocean Shores
(Source: NSW Planning Portal)

The site is also located within an area that is affected by 1 in 100 year flooding. A Flood Information Certificate has been provided by Byron Shire Council and is annexed. The building is proposed to be lifted / designed to be above the 1:100 flood planning level and would be constructed to the appropriate engineering standards.

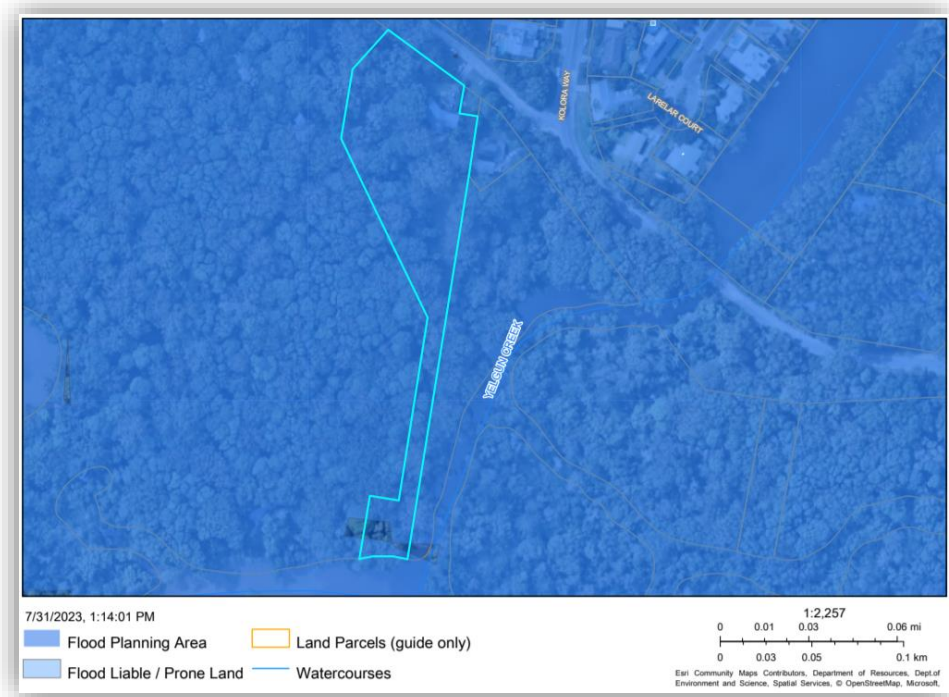


Figure 5: Flood Mapping 177 New Brighton Road, Ocean Shores
(Source: Byron Shire Council)

The allotment is mapped as being within both Coastal Use Areas and Coastal Environment Areas.

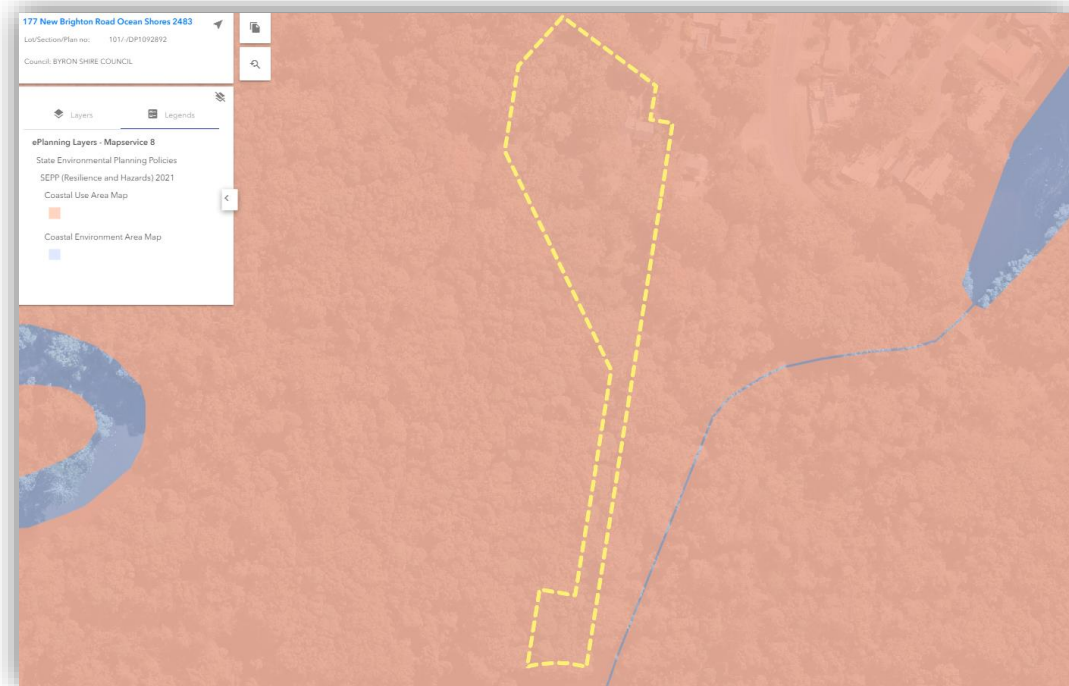


Figure 6: Coastal Use and Coast Environment Area Mapping
(Source: NSW Planning Portal)

The allotment is also mapped as being within Coastal Wetlands Area Mapping.



Figure 7: Coastal Wetlands Area Mapping
(Source: NSW Planning Portal)

It is also noted that the entire property is mapped as being within a High Conservation Area. The majority of the allotment is also mapped as having Endangered Ecological Communities: Subtropical Coastal Floodplain Forest.



Figure 6: High Conservation Area Mapping (Source: Byron Shire Council)



Figure 7: Endangered Ecological Communities Mapping (Source: Byron Shire Council)

3. PROPOSED DEVELOPMENT

Development consent is sought for the Alterations and Additions to existing Dwelling to create a Dual Occupancy (Attached). The development application also includes the lifting of the existing building to ensure that the finished floor level is above the 2100 Flood Planning Level.

Part of the existing two storey dwelling will remain and the existing finished floor level (above the existing garage) and be converted into a Dual Occupancy (Attached). This is located on the eastern wing of the dwelling.

The Alterations and Additions to convert this part of the existing dwelling into an Attached Dual Occupancy are as follows:

- Extension to the proposed dual occupancy with an additional area of 13m²
- Extension to the upper floor of 77m²
- A new upper deck, with proposed area of 61m²

The Alterations and Additions to the existing dwelling's northeastern and southern wings are as follows:

- Proposed house raising of the existing sub floor
- Proposed upper extension over existing deck structure, with an additional area of 17m²
- Extension to the existing driveway towards the northeastern wing
- Creation of a new garage with two new car parking spaces beneath the northeastern wing, where the subfloor is currently located and the proposed house raise will occur (under the new Upper Deck (previously a verandah), Bed 1 and Study)

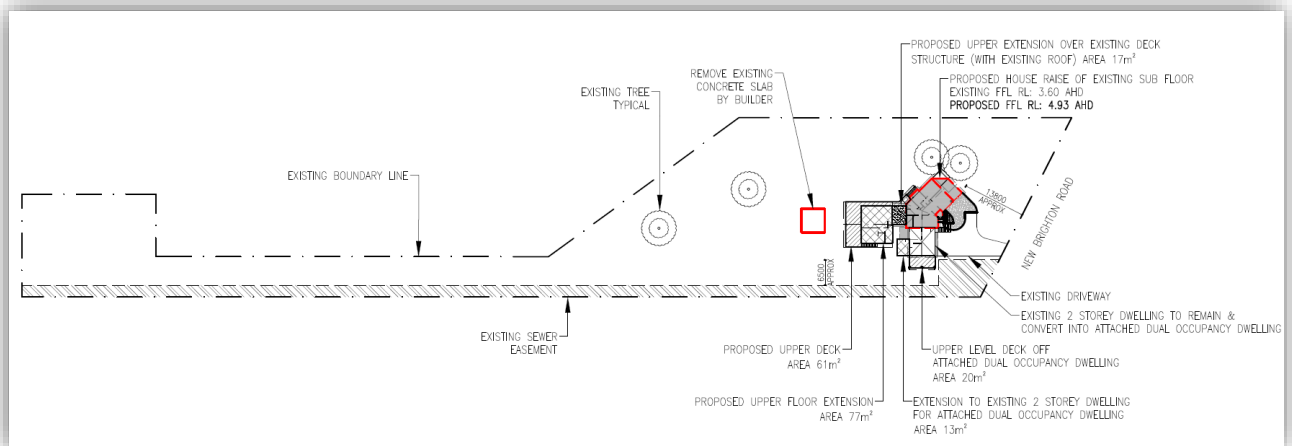


Figure 8: Site Plan LB_DA ISSUE 29.07.2023 (Source: Byron Shire Council)

4. STATUTORY ASSESSMENT – PLANNING AND DEVELOPMENT

4.1 NSW Environmental Planning and Assessment Regulation 2000

The proposal does not raise any significant issues under the *NSW Environmental Planning and Assessment Regulation 2021*. However, consideration has been given to the suitability of the building under Clause 64 of the *NSW Environmental Planning and Assessment Regulation 2021*.

4.2 Section 1.7 of the Environmental Planning & Assessment Act 1979

Section 1.7 of the *Environmental Planning & Assessment Act 1979* provides that the Act has effect, subject to the provisions of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994* that relate to the operation of the Act in connection with the terrestrial and aquatic environment.

The proposed development will generally not impact on existing vegetation within the site as no vegetation removal has been proposed. Given the circumstances it is unlikely that the proposed development will have any direct impacts on threatened species, populations or ecological communities.

4.3 Section 4.14 of the Environmental Planning & Assessment Act 1979

The proposed development is located within the Council mapped Buffer Zone area as indicated on the NSW Planning Portal map as shown in Figure 3 in chapter 2.6 of this report.

This development application is accompanied by a Bushfire Assessment Report, which is attached to this Statement of Environmental Effects.

The development is proposed to comply Planning for Bushfire Protection 2019 with construction to comply with BAL 29.

4.4 Matters for Consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979

The following provides an assessment of the proposed development in accordance with matters under Section 4.15 of the Environmental Planning & Assessment Act. 1979:

Matters for consideration--general 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:

(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
 - (iv) 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
 - (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,
- (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,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.
- Each of these matters for consideration will be discussed in detail below:

4.4.1 Section 4.15(1)(a)(i) The Provisions of any Environmental Planning Instrument

SEPP - North Coast Regional Environmental Plan 1988 (NCREP 1988)

The provisions of the NCREP 1988 raise no implications for the proposal.

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards), Chapter 2 'Coastal Management' – The allotment is mapped as Coastal Environment Area.

The proposal for the continued use of the carport, retaining wall, spa and privacy screen are not likely to cause any adverse impact on the coastal environment.

State Environmental Planning Policy (Resilience and Hazards), Chapter 4 'Remediation of Land' - provides contamination and remediation to be considered in determining development application. In relation to the Remediation of Lands Policy and Council's Contaminated Lands Policy, the allotment was created over 50 years ago for the purpose of containing residential development. Given the history of the site and the suburban setting, further investigations of the property with regards to site contamination are not considered warranted.

Information relating to contaminated land.

All land uses to which the site has been put, including the current use. - Residential.

Is the proponent aware of uses to which properties adjoining the site have been put? If so, please specify. - Residential

Do any of the uses correlate with the potentially contaminating activities set out in table 1 in Schedule 1 of this policy. - No

If the answer to 3 is yes – has there been any testing or assessment of the site and, if so what were the results? - N/A

Is the proponent aware of any contamination on the site? - No

What remediation work, if any (carried out voluntarily or ordered by a government agency), has been taken in respect to contamination which is or may have been present on the site? – Nil

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed works require a BASIX Certificate due to type and value of the works and as such a Basix Certificate is attached to this Development Application.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Coastal management aims to promote integrated and a co-ordinated approach to land use planning in the coast zone in a manner consistent with the objects of the Coastal management Act 2016, including the management objectives for each coastal management area.

- (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](#).

Division 1 Coastal wetlands and littoral rainforests area

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

(1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent—

- (a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
- (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
- (c) the carrying out of any of the following—
 - (i) earthworks (including the depositing of material on land),
 - (ii) constructing a levee,
 - (iii) draining the land,
 - (iv) environmental protection works,
 - (d) any other development.

(2) Development for which consent is required by subsection (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.

(3) Despite subsection (1), development for the purpose of environmental protection works on land identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* may be carried out by or on behalf of a public authority without development consent if the development is identified in—

- (a) the relevant certified coastal management program, or
- (b) a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the [Local Government Act 1993](#), or
- (c) a plan of management under Division 3.6 of the [Crown Land Management Act 2016](#).

(4) A consent authority must not grant consent for development referred to in subsection (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.

(5) Nothing in this section requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the [Biosecurity Act 2015](#).

(6) This section does not apply to the carrying out of development on land reserved under the [National Parks and Wildlife Act 1974](#) if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.

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

Note—The *Coastal Wetlands and Littoral Rainforests Area Map* identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.

(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* unless the consent authority is satisfied that the proposed development will not significantly impact on—

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

(2) This section does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map*.

Response: The subject development is to take place outside mapped Coastal Wetlands Area, however, will be located within the Proximity Area for Coastal Wetlands. The proposal satisfies the protection requirements of Division 1.

Division 2 Coastal vulnerability area

Note—At the commencement of this Chapter, no *Coastal Vulnerability Area Map* was adopted and therefore no coastal vulnerability area has been identified.

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the *Coastal Vulnerability Area Map* unless the consent authority is satisfied that—

- (a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- (b) the proposed development—
 - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
 - (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and
 - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Response: The subject development is to take place outside mapped Coastal Vulnerability Area. Noted however not applicable for this development.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- (b) coastal environmental values and natural coastal processes,
- (c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- (f) Aboriginal cultural heritage, practices and places,
- (g) the use of the surf zone.

(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

(3) This section does not apply to land within the Foreshores and Waterways Area within the meaning of [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 6.

Response: The subject development is designed, sited and will be managed to avoid an adverse impact of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes; the water quality of the marine estate; marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. There is limited existing public open space and safe access to and along the canal at this location however the development will not prevent access for members of the public, including persons with a disability. The proposed development satisfies the protection requirements of Division 3.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following—
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that—

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.
- (2) This section does not apply to land within the Foreshores and Waterways Area within the meaning of [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 6.

Response: The Proposed development is not likely to cause increased risk of coastal hazards on that land or other land and satisfies the protection requirements of Division 4.

State Environmental Planning Policy (Koala Habitat Protection) 2021

The *State Environmental Planning Policy (Koala Habitat Protection) 2021* aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Under Clause 10(2) of the *State Environmental Planning Policy (Koala Habitat Protection) 2021* “The council’s determination of the development application must be consistent with the approved koala plan of management that applies to the land”

The Objectives of the *Byron Shire Draft koala plan of management*:

- (i) The Aims of the Plan will be realised by way of the following objectives:
 - a) establishment of a framework for the identification and management of areas of koala habitat and associated koala populations (Section 4 & 5);
 - b) a strategic program of koala habitat regeneration and/or rehabilitation (Section 6);
 - c) an increase in community and public awareness through education programs concerning koala conservation and management (Section 7);
 - d) identification of koala welfare and research needs intended to improve and inform long-term management of the koala planning area’s resident koala population(s) (Section 8)
 - e) to outline non-binding activities related to issues such as road kill and fire management that are intended to encourage better networking and cooperative management between other agencies whose activities can have a significant influence on koala conservation in the planning area (Section 9).
 - f) establishment of procedures for long-term monitoring of the conservation status of the Byron Coast koalas so as to assess the efficacy of the Plan and enable regular review (Section 10);
 - g) incorporation of standardised assessment procedures to ensure that adequate detail is provided with development applications, along with an accompanying set of development controls and standards (Section 12);
 - h) the provision of requirements for koala habitat compensation for any development that results in unavoidable loss of native vegetation cover (Section 13);

Section 12 – ‘Figure 10 (Development Assessment Flow chart)’ will now be used to determine the extent that the *Byron Shire Koala Plan of Management* will apply:

The review of the Development Assessment Flowchart in the Byron Coast comprehensive Koala Plan of Management has confirmed the following:

- a. Does the application require development consent?
Yes
- b. Does the application include land within the Byron coast koala planning area?
No
- c. Does the application relate to land > 1 hectare.

No - Plan does not apply. Consider koala protection requirements in TSC Act, EPBC Act and local policy (DCP, LEP).

As the *Byron Shire Draft koala plan of management* does not apply, a review of the potential and core Koala Habitat has been undertaken:

Is the land potential Koala habitat?

There is no Koala Habitat located on the site and no Koala food trees proposed to be removed for this development.

Is the land core Koala Habitat?

Core Koala Habitat is defined in the Koala SEPP means:

- (a) *an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or*
- (b) *an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.*

No - The *Byron Shire Draft koala plan of management* has not mapped the property as Koala Habitat.

Byron Local Environmental Plan 2014

The proposed Alterations and Additions to existing Dwelling to create a Dual Occupancy (Attached) development is located within C3 Environmental Management Zone area of the allotment. The proposed development will not compromise the statutory objectives under the provisions of Byron Local Environmental Plan 2014, and is consistent with the objectives of the zone and does not detract from the surrounding residential land uses.

Zone C3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.

RESPONSE: The existing dwelling has been established for approximately 20 years and already has a suitable Asset Protection Zone (APZ) provided and maintained around the building. The proposed dual occupancy dwelling will not require any increase to the existing APZ with the current and previous property owners continuing to protect manage and restore the vegetation area outside the APZ.

- To provide for a limited range of development that does not have an adverse effect on those values.

RESPONSE: The existing dwelling and proposed dual occupancy dwelling meet the requirement and provide for additional house stock that is desperately need in the area.

- To encourage passive recreation and environmental education where there is no detrimental effect to land.

RESPONSE: The existing dwelling and proposed dual occupancy dwelling will continue to provide passive recreation with no detrimental effect to the land. Ongoing weed management and maintenance of the property will continue to occur.

Clause 4.3 Byron L.E.P. 2014 – Height of Buildings

The maximum height of building permitted under this Clause is 9m.

RESPONSE: The proposed development meets this requirement with the proposed additional dwelling to have a maximum height at the peak of the roof of 8.55 metres in height.

Clause 4.4 Byron L.E.P. 2014 – Floor Space Ratio

The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

RESPONSE: The Local Environmental Plan has no prescribed Floor Space Ratio. The site area is 8901m² with the existing building having a GFA of approximately 164m² (excluding required carparking decking) with the proposed alterations and additions to the dwelling to create a GFA of 236m², (excluding required carparking decking) therefore the proposed FSR if specified would be approximately **0.03:1**.

Clause 6.1 Byron L.E.P. 2014 - Acid Sulphate Soils

RESPONSE: The property is located within a Class 3 area that contains potential acid sulfate soils as such an acid sulphate soils management plan / report is attached to the application

Clause 6.2 Byron L.E.P. 2014 – Earthworks

RESPONSE: Sedimentation and erosion control measures are to be applied during construction.

Clause 6.4 Byron L.E.P. 2014 – Floodplain risk management

1. The objectives of this clause are as follows:
 - (a) In relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding above the flood planning level,
 - (b) To protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.
2. This clause applied to:
 - (a) Land between the flood planning area and the level of the probably maximum flood, and
 - (b) Land surrounded by the flood planning area, but does not apply to land subject to the discharge of 1:100ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

RESPONSE: Like most river systems in north eastern NSW, the Marshalls Creek system, within the catchment of which this development is proposed, experiences some degree of flooding during major storm events.

It should be noted that the development will not result in fill or major site works. The nett result is that it will not aggravate flood levels off site or within the catchment.

The proposed dwelling is to achieve a Floor Level of 4.93 AHD, being above the 2100 Flood Planning Level 3.84m AHD (See Annexed Flood Information Certificate).

Clause 6.6 - Essential services

The subject allotment has access to required services as discussed in the table below:

Required Services	Comment
Supply of water	The property is connected to Council's reticulated water supply
Sewer Connection	A sewer connection point is located within the property
Supply of electricity	Accessible from overhead transmission lines administered by Essential Energy
Stormwater drainage or on-site conservation	Stormwater will be directed to both an existing on-site disposal stormwater system and an additional stormwater disposal trench after stormwater collection for BASIX.
Suitable vehicular access	Existing vehicle access is available to the allotment.

RESPONSE: The proposed development has the required essential services.

4.4.2 Section 4.15(1)(a)(ii) The Provisions of any Draft Environmental Planning Instrument

There are no draft environmental planning instruments which have relevant implications for the proposal.

4.4.3 Section 4.15(1)(a)(iii) The Provisions of any development control plan.

Byron Development Control Plan 2014

The relevant chapters of the Byron Development Control Plan 2014 (BDCP 2014) have been addressed below:

DCP Chapter	Comment
Chapter B2 – Tree and Vegetation Management	
Objectives <ol style="list-style-type: none">1. To ensure the protection and preservation of local native vegetation that contributes to the biodiversity, social and amenity value of Byron Shire.2. To recognise and conserve very large trees and hollow bearing trees of habitat, amenity or heritage value.3. To avoid and minimise wherever possible the unnecessary removal of native vegetation.4. To minimise the risks of destabilisation of foreshore, riparian or agricultural land.5. To provide information ensuring land holders are aware when a permit is required for the removal or pruning of vegetation.6. To provide a consistent framework for assessing permits to remove or prune vegetation.7. To recognise the biodiversity values of vegetation that supports and provides refugia to native fauna.8. To recognise the importance and retention of vegetation for carbon sequestration at a local scale.9. To facilitate the removal of undesirable exotic, declared invasive or otherwise inappropriate plant species, and replace them with suitable local native species that contribute to ecological, environmental or habitat value.	There is no proposed tree removal with only limited pruning to ensure that Asset Protection Areas are maintained.
Chapter B3 – Services	
B.3.2.1 Provision of Services - Objectives <ol style="list-style-type: none">1. Ensure adequate water, electricity, sewerage, drainage, road and telecommunication facilities are provided to development;2. Provide flexibility for the provision of alternative water, electricity and telecommunications sources where appropriate;	The proposed development has the required essential services

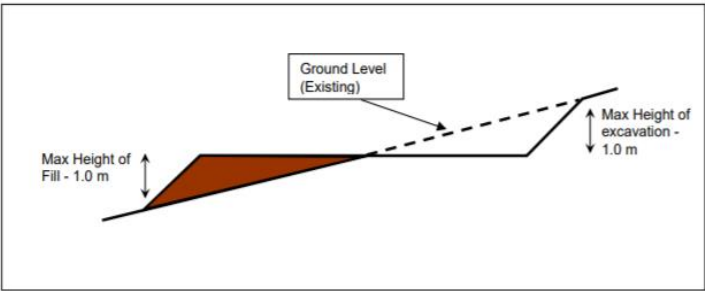
DCP Chapter	Comment
<p>3. To ensure provision of adequate engineering and safety standards for public road access, together with equitable apportionment of road upgrading requirements and associated costs for development served by existing public roads, un-constructed or partially constructed public roads and Crown Roads.</p>	
<p>B.3.2.3 Stormwater Management - Objectives</p> <ol style="list-style-type: none"> 1. To promote on-site stormwater management practices that support the 'predevelopment' hydrological regime (surface flow, streams and groundwater). 2. To ensure that new development does not reduce the effectiveness of existing drainage patterns (including built infrastructure). 3. To minimise the impacts of stormwater runoff from a site on adjoining properties. 4. To provide an acceptable level of protection against personal injury and property damage due to localised stormwater runoff. 5. To promote on-site retention, detention and infiltration of stormwater. 6. To promote stormwater harvesting and other forms of innovative water conservation. 7. To promote better integration of stormwater management into development proposals. 8. To ensure that on-site stormwater management facilities can be economically maintained, and that adequate arrangements are made for on-going maintenance. 9. To provide for the ongoing environmental health of receiving waters; 10. To ensure that stormwater management systems protect ground and surface water and other ecological values; 11. To achieve best practice stormwater treatment targets for stormwater quality. 	<p>On-site stormwater management will occur on the site with the majority of the roof area being collected for BASIX commitments.</p> <p>The small foot print of the additional development ensures that the development will comply with the prescriptive measures.</p> <p>Stormwater will be directed to both an existing on-site disposal stormwater system and an additional stormwater disposal trench after stormwater collection for BASIX.</p>
<p>B.3.2.4 Sedimentation and Erosion Control Measures - Objectives</p> <ol style="list-style-type: none"> 1. Encourage implementation of contemporary best practice in erosion and sediment control; 2. Prevent land degradation by soil erosion through inappropriate land use practices; 3. Protect waterways and sensitive environments from being degraded by increased sediment load; 4. Promote and protect biodiversity by minimising cumulative impacts of sedimentation on the environment; and 5. Protect amenity and prevent discharge of sediment on to both public land and private land. 	<p>Appropriate sediment and erosion control measures will be provided where required.</p>

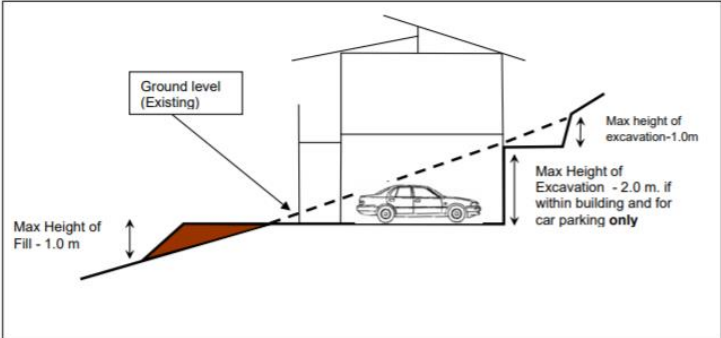
DCP Chapter	Comment
Chapter B4 – Traffic Planning, Vehicle Parking, Circulation and Access	
B.4.1.2 Aims of this chapter <ol style="list-style-type: none"> 1. To ensure that all relevant traffic impacts relating to development are identified, assessed and mitigated. 2. To ensure that parking supply and management in new developments supports Council policies and objectives for the development of Byron Shire; 3. To ensure that traffic generating developments make adequate provision for off-street car parking, such that the needs of occupants, users, visitors, employees, service and delivery vehicles are met; 4. To ensure the safe and efficient circulation of vehicles entering, leaving and within car parking and service/delivery areas; 5. To minimise the detrimental effects (particularly visual and radiated heat effects) associated with off-street car parking areas on the amenity of urban areas. 6. To ensure that entry/exit points to car parking and service/delivery areas are situated in a way that sight distances are maximised, and disruption to the circulation of vehicles on the public road system is minimised. 7. To have regard to the objectives contained within the Byron Shire Strategic Transport Statement (Transport Policy). 	<p>Existing driveway network will be used and two car parking spaces for each dwelling, with turning areas to enable vehicles to leave in a forward position.</p> <p>The creation of a new garage / carport proposes two additional car parking spaces.</p>
Chapter B6 – Buffers and Minimising Land Use Conflict	
B.6.1.3 Aims of this chapter <ol style="list-style-type: none"> 1. To ensure that potential land use conflicts are identified early in the development process. 2. To provide planning principles aimed at avoiding or minimising land use conflicts. 3. To ensure that development proposals are designed to minimise land use conflicts. 4. To provide standards for various types of buffers that aim to avoid conflicts or reduce them to acceptable levels. 5. To encourage a diversity of small agricultural enterprises by providing opportunities to vary the recommended buffer distances through the site assessment process where best practice is being utilised. 	<p>The development site and on 2 sides surrounding is freehold properties zoned for residential uses.</p> <p>The proposal is consistent with the previous and intended planning strategy therefore there is no apparent potential for land-use conflict or the need for buffer zones as a consequence of this proposal.</p>
B6.2.4 Buffers - Objectives <ol style="list-style-type: none"> 1. To avoid land use conflicts between proposed new development and existing, legitimate land uses. 2. To outline controls for buffers aimed at reducing land use conflicts between proposed new development and existing, legitimate land uses where development design and siting cannot deal satisfactorily with land use conflict. 3. To provide for existing, legitimate agricultural and associated rural industry uses to take precedence over other rural land uses within primary production rural zones and where appropriate in other rural zones. 	<p>The development will comply with the objectives and prescriptive measures.</p>

DCP Chapter	Comment
4. To protect significant environmental and natural resources through incorporation of buffers into developments.	
Chapter B7 – Mosquitoes and Biting Midges	
Chapter B7.2.2 Strategies and Guidelines for proposed development within risk zones.	
Objectives <ol style="list-style-type: none"> 1. To identify minimum mosquito and biting midge mitigation strategies for proposed development in risk zones. 2. To provide mosquito and biting midge management guidelines for proposed new development. 	Development is located in mosquito risk zone identified in Map B7.1.
Prescriptive Measures <p>The following measures apply to all development incorporating a residential dwelling(2), education establishment, recreation area or tourist and visitor accommodation located within a mosquito risk zone identified in Map B7.1:</p> <ol style="list-style-type: none"> a) All development must provide effective insect screening to all windows, doors and other openings to all parts of the development used for residential purposes. b) All development must incorporate an effectively screened outdoor area of a size commensurate with the number of people who are likely to use it, to enable an outdoor lifestyle to continue to be enjoyed during periods of high mosquito and biting midge activity. This may be a communal area for development incorporating more than one dwelling or more than one tourist accommodation unit. c) Measures arising from the entomologist's recommendations to minimise the potential impact on residents from mosquitoes and biting midges must be based on a demonstrated investigation strategy and sound knowledge of all the nearby habitats that could be expected to significantly affect the breeding and harborage of mosquitoes and biting midges. d) Establishment of any buffers required must be within the development site and not reliant upon neighbouring or adjoining land, public reserves, Crown Land and Nature Reserves. Buffers must be on land of low biodiversity significance. 	<p>The development will provide effective insect screening to all windows, doors and other openings to all parts of the development used for residential purposes.</p> <p>These will also be provided as ember screen to comply with Planning for Bushfire Protection.</p>
Chapter B8 – Waste Minimisation and Management	
Chapter B8.1.2 Aims of this Chapter	
<p>The Aims of this Chapter in pursuit of sustainable waste management include:</p> <p>Waste minimisation</p> <ol style="list-style-type: none"> 1. To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources. 2. To minimise demolition waste by promoting adaptability in building design and focussing upon end of life deconstruction. 3. To encourage building designs, construction and demolition techniques in general which minimise waste generation. 4. To maximise reuse and recycling of household waste and industrial/commercial waste. 	A Site Waste Minimisation and Management Plan has been submitted with the Development application.

DCP Chapter	Comment
<ol style="list-style-type: none"> To assist applicants in planning for sustainable waste management, through the preparation of a Site Waste Minimisation and Management Plan. To assist applicants to develop systems for waste management that ensure waste is transported and disposed of in a lawful manner. To provide guidance in regards to space, storage, amenity and management of waste management facilities. To ensure waste management systems are compatible with collection services. To minimise risks associated with waste management at all stages of development. 	A Site Waste Minimisation and Management Plan has been submitted with the Development application.
Chapter 9 – Landscaping	
Chapter 9.1.3 Aims of this Chapter	
<ol style="list-style-type: none"> To facilitate implementation and achievement of the relevant Aims contained in Clause 1.2 of Byron LEP 2014. To maintain, protect and enhance the Shire's biodiversity in conjunction with development. To encourage the enhancement of the natural sub-tropical environment particular to the Shire of Byron. To nominate landscaping requirements relating to all forms of development. To ensure that adequate provision is made for landscaping, in accordance with the type, scale and location of the proposed development. To encourage the recognition of climatic influences and the incorporation of landscaping design features to enhance or modify the climatic factors relating to the site. To encourage design for low maintenance landscaping. To encourage the retention of trees and native vegetation of ecological, aesthetic and cultural significance through integration as part of landscaping design. To encourage the planting of species locally indigenous to Byron Shire. 	The development will comply with the objectives and prescriptive measures.
Chapter 9.5 Dual Occupancies and Semi Detached Dwellings	
B9.5.1 Landscape principles - Prescriptive Measures	
<ol style="list-style-type: none"> The following design requirements apply to dual occupancies, and semi detached dwellings developments: <ol style="list-style-type: none"> retention of suitable existing vegetation; screen planting to street frontages and driveway areas, to provide privacy between dwelling houses and around the boundaries of the site; provision of pleasant landscaped settings for the enjoyment of residents; planting selection that relates to building scale and mass. Each dwelling must have a minimum landscaped area of 90m², excluding any area used for vehicle circulation or parking. At least 25% of the site must consist of deep soil areas. 	<p>Each dwelling will have a minimum landscaped area of 90m², (excluding any area used for vehicle circulation or parking).</p> <p>At least 25% of the site will consist of deep soil areas.</p> <p>There will be minimal earthworks, so that the bulk, scale and appearance of development remain compatible with the existing area</p>

DCP Chapter	Comment
Chapter 14 – Excavation and fill	
Chapter 14.1.2 Aims of this Chapter	
<ol style="list-style-type: none"> 1. To ensure that development applications for earthworks address aesthetics, character, engineering and geotechnical factors. 2. To ensure that the character, bulk and scale of development remain compatible with the unique environment that has been created by the area's natural features and its historical built character. 3. To control the extent of earthworks, so that the bulk, scale and appearance of development remain compatible with the character and visual amenity of the Shire's towns, villages, rural areas and natural landscapes. 4. To promote the appropriate use of well designed earthworks to achieve compatible and positive design outcomes in terms of improved landscapes, streetscapes, thermal sustainability and insulation in buildings and developments. 5. To prevent cumulative deterioration in the attractiveness of the Shire's built environment as a result of large scale earthworks, buildings and structures that by themselves may not appear highly significant, but that collectively and progressively contribute to reduced character and appeal. 6. To minimise the need for extensive engineering works required to support and manage large scale earthworks. 7. To minimise risks of geotechnical instability, landslip and surface movement associated with development in the Shire. 	The development will comply with the aims, objectives and prescriptive measures.
Chapter 14.2 Excavation and Fill in all Zones	
Objectives <ol style="list-style-type: none"> 1. To ensure that towns, villages, commercial, industrial, residential and rural areas maintain overall compatibility with the Shire's natural features and its historical built character. 2. To control the extent, character, bulk and scale of earthworks so that both individual and cumulative earthworks over time do not detract from the existing and desired future character of their immediate locality, and the surrounding area. 3. To promote the use of earthworks to create landscapes and streetscapes that make a positive contribution to the existing and desired future character of their immediate locality and the surrounding area. 	The development will comply with the aims, objectives and prescriptive measures.
Performance Criteria <ol style="list-style-type: none"> 1. Development proposals must demonstrate that proposed earthworks will be compatible with the low rise, low to medium density form, scale and desired future character of their locality and immediate surrounds. Proposals must demonstrate that excavation and fill will be limited to ensure that: <ol style="list-style-type: none"> a) Adverse visual impacts, bulk and scale of both the proposed earthworks and the resultant overall development are minimised; b) Overshadowing of adjoining private and public land is avoided; c) The scale and character of the resultant landform 	The development will comply with prescriptive measures with minimal earthworks

DCP Chapter	Comment
<p>and buildings will remain compatible with their surrounds and with the desired future character of the locality;</p> <p>d) Resultant drainage characteristics and systems both on the site and in the locality will be consistent with Chapter B3 Services and with Water Sensitive Urban Design Principles.</p> <p>e) The need for engineering and support works is minimised; Risk of geotechnical instability and/ or landslip is minimised.</p> <p>2. Where earthworks are designed to facilitate and/ or improve thermal sustainability and insulation in buildings and developments rather than as structural or landscape elements, development proposals must demonstrate the particular benefits to be gained from those earthworks.</p> <p>3. Earthworks must be designed to ensure that the community /pedestrian scale and character of commercial areas will be retained and reinforced.</p> <p>4. Where filling is proposed to mitigate flooding and stormwater issues, details are to be submitted with the application demonstrating the fill will not have a significant adverse impact on the flow characteristics of flood waters or detrimentally increase the level of flooding or stormwater on other properties or development.</p> <p>5. Lots that are identified as having stability problems either on Council's GIS mapping or through the development assessment process (slopes greater than 15 degrees, land that has historically been used for uncontrolled filling, or land that is constrained by springs or wet areas etc.) are to adequately address geotechnical constraints through the submission of a detailed geotechnical report prepared by a suitably qualified professional. The development application shall also incorporate preliminary design detail for footings, driveways and storm water management to demonstrate how the risk is adequately managed. In certain circumstances the geotechnical constraints will prevent properties from being developed for infill development and applications will not be approved.</p>	<p>N/A</p> <p>Complies</p> <p>N/A</p> <p>N/A</p>
<p>Prescriptive Measures</p> <p>1. Unless otherwise stated below, excavation and filling must be limited to a depth of 1 metre. See Figure B14.1.</p>  <p>Figure B14.1 – General Excavation and Fill Requirements</p>	<p>Complies – Minimal cut and fill is proposed, and would be limited to the driveway addition and parking area.</p>

DCP Chapter	Comment
<p>2. The maximum excavation restriction is not applicable where the excavation is incorporated into the dwelling structure to satisfy minimum car parking requirements up to a maximum height of 2 metres. For details see Figure B14.2.</p>  <p>Figure B14.2 – Excavation and Fill for Car Parking</p>	Complies
<p>a) Batters and cuttings to be landscaped with appropriate native shrubs and ground covers to prevent erosion and not left exposed to the elements. Stripped top soil to be stockpiled on site and used to top dress disturbed areas</p> <p>b) Where earthworks are proposed for swimming pools, the earthworks to have a maximum depth of no more than 2 metres. Where swimming pools are partially benched into the side of a hill to create an infinity edge or similar, the pool to extend no more than 1 metre out of the ground. For details see Figures B14.3 and B14.4</p>	No swimming pool is proposed.
<p>c) Where pools are to be located on sloping land or on land considered by Council as geotechnically constrained, appropriate geotechnical investigations to be carried out by a suitably qualified engineer. Details to be submitted with the development application demonstrating that the site is suitable for the proposed pool.</p>	Complies
<p>d) Where in-ground water tanks and effluent disposal systems are proposed, there are no specific restrictions limiting the depth of earthworks. Where required details on geotechnical and acid sulfate soils constraints to be submitted with the development application.</p>	N/A
<p>e) Basement car parks - Any development application that seeks consent for a basement car park will need to have regard to the provisions contained within Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.</p>	N/A
<p>f) Filling on the floodplain – Any development application that seeks consent to fill land within the flood planning area will need to have regard to the provisions contained within Chapter C2 Areas Affected by Flood.</p>	Complies
<p>g) Engineering detail by a suitably qualified structural or geotechnical engineer to be submitted for earthworks on land with a gradient exceeding 15% or where cut and fill of more than 1 metre is proposed.</p> <p>h) A site plan shall be provided that shows all areas of cut and fill on the site and specifically identifies any</p>	Complies with plans provided

DCP Chapter	Comment
areas over one metre.	
Chapter C2 – Areas Affected by Flood	
Chapter 2.1.2 Objectives of this Chapter	
<p>The Objectives of this Chapter are to:</p> <ol style="list-style-type: none"> 1. Support and implement the objectives and provisions of Byron LEP 2014 relating to development on land at or below the relevant flood planning level. 2. Provide a holistic approach to managing development on flood liable lands; 3. Ensure development maintains the existing flood regime and flow conveyance capacity; 4. Consider the future projected impacts of climate change on the floodplain in accordance with Council's adopted Climate Change Strategic Planning Policy; 5. Reduce the impact of flooding and flood liability on individual owners and occupiers; 6. Reduce public and private losses resulting from flooding; 7. Encourage the development of and use of land in a manner compatible with the flood hazard. 	<p>The proposed development has considered Flooding in the design and operation of the development which will meet Councils floor height requirements, and being above the 1 % flood level.</p> <p>An Evacuation Plan will ensure that occupant safety is optimised.</p> <p>As such it is considered that the design criteria meets DCP 2014 requirements.</p>
Chapter 2.3 Development Controls	
<p>The following steps should be taken to ascertain the flood planning controls relating to development on land at or below the future flood planning level:</p> <p>Step 1 Consider the applicable Flood Study for the catchment in which the land is situated, in relation to flood hazard and floor level requirements (Section C2.3.1).</p> <p>Step 2 Consider the specific Flood Planning provisions for the type of development and flood hazard as set out in the flood planning matrix (Table C2.1 below).</p> <p>Step 3 Consider any special requirements or standard designs for particular localities (Section C2.3.5).</p>	Complies
Chapter 2.3.1 Applicable Flood Study	
<ol style="list-style-type: none"> 3. Marshalls Creek Catchment <ol style="list-style-type: none"> i) Marshalls Creek Floodplain Management Plan (1997) j) Tweed – Byron Coastal Creeks Flood Study (2010) k) Tweed – Byron Coastal Creeks Flood Study BSC Climate Change Assessment (2010) <ol style="list-style-type: none"> i) includes Ocean Shores, New Brighton, South Golden Beach and Billinudgel. The extent of the Marshalls Creek catchment is shown in Map C2.4. l) North Byron Coastal Creeks Flood Study (in preparation) <ol style="list-style-type: none"> i) refer to Brunswick River catchment 	Marshalls Creek Catchment
Chapter 2.3.2 Minimum Floor Levels	
<ol style="list-style-type: none"> 1. The finished floor level of habitable rooms must be above the relevant level defined by the flood planning matrix. Analysis and certification by a suitably qualified structural engineer will be required where the finished floor level of enclosed 'non habitable' rooms is more than 1.0 metre below the 1:100 year flood level. 2. Developments in new release areas, certain rezoning proposals, critical facilities and special purpose facilities 	The proposed development, will not restrict the flow characteristics of flood waters in the area, as the type of flooding in this area is restricted to waters backing up from Marshalls Creek, and being constricted by the north coast rail line which crosses the valley to

DCP Chapter	Comment
<p>requiring a longer flood planning horizon are generally required to achieve the Projected 2100 Flood Planning Level.</p> <p>3. New dwellings in existing residential areas are generally required to achieve the Projected 2050 Flood Planning Level. Adaptable building design is encouraged so that dwellings on piers, posts, columns or piles can be raised in future to accommodate climate change. Where concrete slab on ground is necessary the slab level shall be finished at least 300mm above the surrounding ground, as well as achieve the Projected 2050 Flood Planning Level.</p> <p>4. Commercial and Industrial floor levels are generally required to achieve the Projected 2050 Flood Planning Level. Where this cannot occur, Council will consider flood proofing and emergency storage above the Projected 2050 Flood Planning Level to minimise damage that may occur during flooding (refer to sections C2.3.4 Flood Proofing and C2.3.5 Special Provisions).</p>	<p>the north of this property.</p> <p>No site works are proposed that will alter the existing drainage characteristics of the site, and the proposed development will not alter flow characteristics.</p> <p>Local flooding is restricted to water ponding along Marshalls Creek catchment, where water quickly gets away at change of tide.</p> <p>There will be no new filling of the site as such it is considered that the development will not increase the level of flooding on other land in the vicinity, particularly as the dwelling proposed is to sit over 1 % flood level, on existing filled land.</p> <p>Due to existing filled and partially elevated nature of the site, and the fact that the elevated building will not displace flood waters, it is considered that the proposed development satisfies this LEP objective.</p> <p>Vehicular Access:- Car spaces have a level of approx. 2.70m AHD, and as such if an event is predicted, evacuation via New Brighton Road and onto Kolora Way will still be trafficable. A flood access and evacuation plan will be affixed to the proposed dwellings to assist occupants to leave in an emergency to ensure that occupant safety is optimised.</p> <p>As such it is considered that the design criteria meets DCP 2014 requirements.</p>
Chapter D1 – Residential Accommodation in Urban, Village and Special Purpose Zones	
Chapter D1.1.1 Aims of this Chapter	
<p>m) To implement and expand on the provisions of Byron LEP 2014 relating to residential development.</p> <p>n) To promote a high standard of design for residential development that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire.</p> <p>o) To accommodate a variety of residential forms and dwelling sizes to reflect the growing diversity of household types, sizes, incomes, lifestyles and needs.</p>	<p>The proposed development achieves these aims and objectives</p>

DCP Chapter	Comment
<p>p) To promote energy efficiency and consideration of the Shire's climatic characteristics in the design process.</p> <p>q) Where possible, to limit potential for additional traffic on the road system and to reduce car dependence through facilitation of public transport, cycling and walking.</p>	
Chapter D1.2.1 Building Height Plane	
<p>Objectives</p> <ol style="list-style-type: none"> 1. To ensure that residential development is designed to minimise impacts on solar access and privacy on adjoining properties, and on the views from adjacent existing buildings. 2. To ensure that the occupants of the building or buildings will enjoy the optimum use of winter sunlight and summer shade. 	<p>The proposed development achieves these aims and objectives.</p>
<p>Performance Criteria</p> <ol style="list-style-type: none"> 1. Developments must be set back progressively from the site boundaries as height increases so that they do not adversely affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy or obstructing views. 2. Developments must be designed so that they will promote energy efficiency and so that residents may enjoy optimum use of winter sunlight and summer shade. 3. Development applications must demonstrate that the windows of living areas (decks, living rooms, bedrooms, kitchens, etc.) of development on adjoining properties will, as a minimum, retain full solar access between the hours of 9.00am to 3.00pm on any day 	<p>No adjoining residential properties to be affected as the developments has been back from the site boundaries as height increases so that they do not adversely affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy or obstructing views.</p> <p>The development has been designed so that they will promote energy efficiency and so that residents may enjoy optimum use of winter sunlight and summer shade with the plans clearly showing that as a minimum the adjoining development will retain full solar access between the hours of 9.00am to 3.00pm on any day as the proposed solar access butterfly shows that there will be now majority over shadowing of the adjoining properties.</p>
Chapter D1.2.2 Setbacks from Boundaries	
<p>Objectives</p> <ol style="list-style-type: none"> 1. To achieve varied and interesting streets that complement and harmonise with existing and planned streetscapes and development in the locality. 2. To achieve good orientation and spacing of residential developments that achieve high quality living environments relative to sunlight, shade, wind and weather protection, residential amenity and proximity of neighbouring development. 3. To achieve effective use of allotments to create useable and liveable private open space and courtyards. 4. To provide flexibility in siting and design of dwelling house development in urban residential areas. 5. To ensure that development in residential areas seeks to minimise any negative impacts on neighbours caused by siting. 	<p>The development has orientation and spacing of residential developments that achieve high quality living environments.</p> <p>The siting and design of dwelling house development in urban residential areas ensures that the development in residential areas minimises any negative impacts on neighbours caused by siting.</p>

DCP Chapter	Comment
3. Minimum Setbacks for Dual Occupancies and Secondary Dwellings a) Side and rear setback – 1.5 metres for single storey, and must comply with the building height plane	The proposed development maintains over 1.5 metres in setback however due to the finished floor level requirements for flooding the height of the proposed dwelling has had to be increased within the Building Height Plane in line with other developments in the area
Chapter D1.2.3 Screening the Underfloor Space of Buildings	
Objectives 1. To improve the external appearance of elevated buildings. 2. To provide for compatibility in appearance and character between buildings in the locality.	Underfloor screening is to be provided where appropriate however this will be limited when taking into account the flood liable lands and the requirements the Building Code of Australia and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.
Performance Criteria 1. The underfloor space of elevated buildings must be provided with infill panelling, advanced landscaping or other forms of visual screening to improve the external appearance of the building and to ensure compatibility with other development in the locality. 2. In flood liable land the screening of the underfloor space of elevated buildings may not be appropriate. Screening below the flood planning level must have openings to allow for entry and exit of flood water and must be structurally adequate and not reduce the structural capacity of the building during a 1 in 100 year flood event. 3. Where buildings are proposed on bush fire prone land, underfloor screening may be required to comply with specific requirements prescribed by the Building Code of Australia and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.	Appropriate underfloor screening is to be provided, taking into account the flood liable lands and the requirements the Building Code of Australia and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.
Chapter D1.2.4 Character and Visual Impact	
Objectives 1. To retain and enhance the unique character of Byron Shire and its distinctive landscapes, ecology, towns, villages, rural and natural areas. 2. To ensure that new development respects and complements those aspects of an area's natural and built environment that are important to its existing character.	The proposed development achieves these objectives in the residential context.
Performance Criteria 1. Development should demonstrate how siting, design and character are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP.	The proposed development achieves the Performance Criteria as indicated in the development plans with the development siting, design and character consistent

DCP Chapter	Comment
<ol style="list-style-type: none"> 2. Site, building and landscaping design must address the climate; 3. The street face of a building, together with any open space between it and the street, must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping; 4. Development should be designed to minimise loss of privacy; 5. There must be a reasonable degree of integration with the existing built and natural environment, balanced with the desirability of providing for variety in streetscapes; 6. Long, straight wall areas will be discouraged and must be broken up visually by a combination of building materials and/or changes in the wall plane; 7. The provision of verandahs, balconies, pergolas and other protective outdoor elements will be encouraged for visual, climatic and energy efficiency reasons; 8. Well-designed overhanging eaves should be provided where feasible to protect against heavy rainfall and summer sun, while allowing winter sun penetration; 9. All building materials must be compatible in character with their surrounding environment. Any metal roof must have a colorbond or equivalent finish and no roof may be highly reflective. White or light-coloured roofing may be approved where it is demonstrated that it is not likely to be visually intrusive. Details of building materials and surface colours must be submitted for assessment with a development application. 	<p>with the relevant Residential Character Narrative, as contained in the corresponding locality.</p> <p>The building and landscaping design addressed the climate and energy efficiency requirements of BASIX with the street face of the building, together with any open space between it and the street, contributing to the general attractiveness of the streetscape.</p> <p>The development's design minimises the loss of privacy due to limited neighbours in the area.</p> <p>The new construction works will be integrated with the existing built and natural environment, balanced with the desirability of providing for variety in streetscapes.</p> <p>There are minimal long, straight wall areas and the development will have a combination of building materials and/or changes in the wall plane.</p> <p>The major area of the development is the provision of verandahs, balconies, pergolas and other protective outdoor elements will be encouraged for visual, climatic and energy efficiency reasons and the development also has well-designed overhanging eaves should be provided where feasible to protect against heavy rainfall and summer sun, while allowing winter sun penetration;</p> <p>All building materials must be compatible in character with their surrounding environment. The metal roof must have a colorbond or equivalent finish and no roof may be highly reflective.</p> <p>Details of building materials and surface colours have been detailed on the plans which have been submitted for assessment with a development application.</p>

DCP Chapter	Comment
Chapter D1.2.5 Fences	
Objectives <ol style="list-style-type: none"> 1. To enable residents to erect fences to provide for a sense of privacy, noise reduction and security. 2. To ensure that fences do not remove the sense of safety in the street that pedestrians gain from the casual observation by residents. 3. To ensure that fences do not unduly reduce opportunities for casual social interaction in the community. 4. To ensure that fences do not become a dominant built element in the streetscape. 5. To exclude unwanted light from vehicles in particular circumstances. 6. To ensure that the design and placement of fences do not adversely impact traffic or pedestrian safety. 7. To ensure provision for access by safety and emergency vehicles and personnel. 	There is no new fencing proposed as part of this development application and no front fencing will be installed
Performance Criteria <ol style="list-style-type: none"> 1. Fences must not: <ol style="list-style-type: none"> a) impair driver or pedestrian visibility at road intersections; b) prevent residents of a dwelling from casually observing the adjacent street; c) detract from the streetscape in terms of fencing design, materials, scale or colours; d) prevent emergency access by safety and emergency vehicles and personnel. 2. Gates or openings in fences must facilitate safe entry and exit conditions for vehicles to and from public roads. Fences must not create or contribute to unsafe sight distance restrictions for vehicles entering or exiting neighbouring properties. 3. Fencing of corner allotments must allow for reasonable enclosure of rear yard areas for privacy and security, while minimising the impact of the fence on the street scene, safe sight distance and traffic and pedestrian safety. 	There is no new fencing proposed as part of this development application and no front fencing will be installed
Chapter D1.5 Dual Occupancy and Semi-Detached Dwellings	
<p>Council recognises the role of dual occupancy development in contributing to infill development, making fuller use of existing services, adding to the stock of rental accommodation and widening the range of housing options. Council wishes to encourage dual occupancy and semi-detached dwelling developments which suit the differing needs of the community and which enhance the residential character of the Shire. In addition to the controls in this Chapter applying to dual occupancy and semi-detached dwelling development, proposals which have rear lane access with one of the dwellings fronting that lane are to comply with the provisions under Chapter D6 Subdivision (Section D6.4.3). Dual occupancy and semi-detached dwellings should contribute to the character of the local area as identified in the corresponding locality chapter in Part E of this DCP.</p>	The proposed development achieves these aims and objectives.

DCP Chapter	Comment
D1.5.1 - On-Site Car Parking Objective 1. To provide adequate and visually compatible on-site accommodation of vehicles for residents and visitors. Prescriptive Measures 1. Generally 2 car parking spaces will be required for a dwelling and 2 for each dual occupancy. 2. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding car parking and vehicle access.	2 car parking spaces will be provided for each dwelling with Traffic Planning, Vehicle Parking, Circulation and Access will comply with Chapter B4
D1.5.2 - Character Objectives 1. To ensure that dual occupancy and semi-detached dwelling development is compatible in character with development in the locality, provides adequate private open space and addresses slope and drainage issues. Performance Criteria 1. In assessing any proposal for dual occupancy or semi-detached dwelling development, particular consideration will be given to the topography and slope of the site, the use of design to minimise loss of privacy, the visual impact of the proposal and the likely impact on water flows and drainage. 2. To encourage better visual quality and greater public acceptance, any dual occupancy (attached) or semi-detached dwelling development must be designed as far as possible to look like a dwelling house. Mirror-image dwellings must be avoided. 3. Private open space must be specifically designed to be easily accessible to each dwelling. 4. Dual occupancy and semi-detached dwellings should demonstrate how siting, design and character are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP.	The proposed dual occupancy development is compatible in character with development in the locality, and provides adequate private open space and addresses slope and drainage issues
D1.5.6 Sound Proofing – Objectives 1. To ensure an acceptable acoustic environment for resident Performance Criteria 1. Division walls between separate occupancy areas of dual occupancy (attached) and semi-detached dwelling development must be of sound resisting construction to ensure acoustic privacy and amenity between rooms. 2. Development must be designed to minimise noise and vibration impacts upon occupants of surrounding dwellings. Where practicable, sources of noise must be sited away from adjoining properties, and where necessary must be screened by acoustic treatments.	There is a fire wall separating the attached dual occupancy from the existing dwelling suitably separated so as to prevent an unacceptable acoustic environment for residents
Chapter E9 – Ocean Shores, New Brighton and South Golden Beach	
Chapter E9.1.2 Aims of this Chapter	
The primary purpose of this Chapter of the DCP is to provide the residential character context and principles for development within the above residential areas. The aims of this Chapter are:	The proposed development achieves these aims and objectives.

DCP Chapter	Comment
<ol style="list-style-type: none"> 1. To provide guidelines for the development of the above residential areas consistent with the provisions of the Byron LEP 2014, the draft Byron Shire Residential Strategy 'residential character narratives' and other relevant strategies and Chapters of this DCP. 2. To inform the content of any Design Verification Statement and site analysis required by the Low Rise Housing Diversity Guides (for Complying development and Development Applications). 3. To encourage new development to complement, support and strengthen the residential character and living amenity of these localities. 	
Chapter E9.3 - General Provisions	
Chapter E9.3.1 Character, Bulk and Scale of Development	
<p>Objectives</p> <ol style="list-style-type: none"> 1. To ensure that residential development will complement, support and strengthen the residential character and living amenity of these localities. 2. To ensure that infill development respects (where applicable) constraints associated with steep terrain, flooding and sensitive coastal habitat, as well as surrounding neighbourhood character. 	<p>The proposed development achieves these aims and objectives.</p>
<p>Performance Criteria</p> <p>The existing and desired future character of these localities is defined by the following characteristics:</p> <ol style="list-style-type: none"> 1. Natural Environment The Ocean Shores, New Brighton and South Golden Beach localities are bounded and strongly influenced by natural elements including the sea, Nature Reserves (Billinudgel and Marshalls Creek), wetlands, remnant forests, bushland and parklands. Development within these localities is located, designed and oriented to support, complement and foster community access to and understanding of those natural elements. Development is designed to protect and enhance their integrity and to respect their natural edges. Where feasible, development allows and encourages the natural elements to expand into the development site. 2. Residential Areas <ol style="list-style-type: none"> a) The residential areas in these localities contain a varied and compatible range of architectural styles, materials, landscapes and streetscapes. Housing comprises mainly low density, low rise single and attached dwellings with low-impact bulk and scale. New development is designed to respect the residential neighbourhood character of these areas, consistent with residential character narratives in E9.2 above. b) New residential development is consistent with the requirements of Chapter D1 Residential Development in Urban and Special Purpose Zones. Development is designed to enhance the low key, family-friendly, coastal village character, streetscape and scale of Brunswick Heads. Landscaping is provided in accordance with the requirements of Chapter B9 Landscaping. 3. Ocean Shores Shopping Centre <ol style="list-style-type: none"> a) The Centre should be encouraged to evolve into a 	<p>The proposed dual occupancy development is compatible in character with development in the locality, (including other dual occupancies in the area) and provides adequate private open space and addresses slope and drainage issues</p>

DCP Chapter	Comment
<p>contemporary town centre with a wider range of community services, meeting places and office space whilst continuing to operate as a retail and specialty use commercial centre catering for the local catchment.</p> <p>b) Where possible, new commercial and retail development (or redevelopment) should take advantage of the Centre's proximity to the adjacent Marshall's Creek Nature Reserve and ocean view, with increased opportunities for outdoor eating and other complementary uses to enhance resident/ visitor experience Byron Shire Development Control Plan 2014 – Chapter E9 – Ocean Shores, South Golden Beach and New Brighton</p> <p>c) New commercial and retail development shall be consistent with the requirements of Chapter D4 Commercial and Retail Development. Development is designed to enhance the low key, coastal village character, streetscape and scale of the shopping centre.</p> <p>There are no Prescriptive Measures</p>	

4.4.4 Section 4.15(1)(a)(iv) The Provisions of any Planning Agreements

There are no planning agreements that have been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 for this development.

4.4.5 Section 4.15(1)(a)(v) The Provisions of the regulation

Clause 64 of the *Environmental Planning and Assessment Regulation* allows for a Consent authority to require buildings to be upgraded. This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where—

- (a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or
- (b) the measures contained in the building are inadequate—
 - (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or
 - (ii) to restrict the spread of fire from the building to other buildings nearby.

RESPONSE: A review of the existing measures contained in the building has occurred as part of this application and services will be upgraded to comply with the current Building Code of Australia and Planning for Bushfire Protection 2019.

4.4.6 Section 4.15(1)(b) The likely Impacts of the Proposed Development

In assessing the subject proposal, Council must consider the likely impacts of the development, including environmental impacts, on both the natural and built environments, and social and economic impacts in the locality.

This Section of the Statement of Environmental Effects indicates the following matters, where relevant to the proposal:

- a) the environmental impacts of the development,
- b) how the environmental impacts of the development have been identified,
- c) the steps to be taken to protect the environment or to lessen the expected harm to the environment.

Impacts on the Built Environment

As the proposed development is considered low impact with the estimated traffic generation in accordance with Chapter B4 of the DCP.

The proposed development will not affect solar access, privacy or the views for neighbouring sites.

The site contains existing buildings and no major earthworks are proposed.

Notwithstanding this, a search on the AHIMS website found that:

0 - Aboriginal sites are recorded in or near the above location.

0 - Aboriginal places have been declared in or near the above location.

The colours and materials of the existing structures are consistent with the character of the area.

Impacts on the Natural Environment

No vegetation removal is proposed. The proposed development site is affected by flooding, bushfire and the scenic quality of the area will not be impacted upon by the proposed development as it is within the current footprint. The impact of noise is also expected to be acceptable.

The Biodiversity Offset Scheme (BOS) Entry Threshold Map was generated and a BDAR is not triggered. An assessment in accordance with section 7.3 of the Biodiversity Conservation Act 2016 to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities or their habitats is provided below.

- a) In the case of a threatened species, whether the action proposed 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.

Comment: The proposal is not expected to have an adverse effect on populations of threatened species as no native vegetation is to be removed and as previously noted there are no trees or shrubs in or adjacent to the intended location.

- b) in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:
 - i) is likely to have an adverse effect on the extent of the ecological community such that it's 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

Comment: The proposal is not expected to have an adverse effect on any endangered ecological community or critically endangered ecological community.

- 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,

Comment: The proposed development will not remove habitat or isolate or fragment any ecological community.

- 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)

Comment: There is no declared area of outstanding biodiversity value that will be affected by the proposed development.

- 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.

Comment: The proposed development is not likely to fragment or isolate areas of habitat and is not a key threatening process.

Economic Impacts

The proposal is likely to result in positive economic impact. The proposed development will contribute positive social and economic benefits to the wider community.

Social impacts

The proposal does not raise any social impact issues. There will not be any significant impact on the existing and future amenity of the area as a result the development.

4.4.7 Section 4.15(1)(c) Suitability of the Site for the Proposed Development

The proposal does not involve or require the removal of any trees or shrubs. An existing driveway will be extended provides access to vehicle parking spaces within the site for the use by the dual occupancy dwelling. None of the surrounding uses present any major conflicts for the proposed uses of the subject site.

The property fronts New Brighton Road. The site is constrained by flood and environmental constraints, and these factors, and the design, ensure that the overall proposal will not cause adverse environmental impact. The size and shape of the allotment is adequate to ensure that the proposal does not constitute an over development of the site.

The proposed development also accords with Council's requirements for developments of this type.

The site is considered to be suitable for the proposed development.

4.4.8 Section 4.15(1)(d) Any submissions made

Where Council notifies this development, any submissions made should be consider as part of the assessment of the development. The applicant would like the opportunity to remedy any issues raise as a result of the submissions made (if any.)

4.4.9 Section 4.15(1)(e) The Public Interest

The proposed development meets the requirements of Byron Local Environmental Plan 2014 and Development Control Plan 201, it is considered that the public response to the proposal be a positive one.

The development is to be managed to minimise the potential for adverse impact on neighbouring communities as there are no adjoining residential properties.

The development does not compromise the public interest.

5. CONCLUSION

This statement of environmental effects accompanies development application documentation and seeks the approval for the proposed Alterations and Additions to existing Dwelling to create a Dual Occupancy (Attached).

The proposed development has been considered against the requirements of Byron Local Environmental Plan 2014 and Development Control Plan 2014. The proposal is permissible with the consent of Council within the Zone under Byron Local Environmental Plan 2014. The proposed development is generally consistent with the requirements of both the LEP and DCP, will have minimal impacts on the surrounding area as the development will comply with the objectives of the zone and does not detract from the surrounding land uses.

The existing site has available infrastructure are considered to be suitable for the development proposed.

This Statement of Environmental Effects has identified that the proposal is not likely to cause any significant adverse impacts or land use conflicts, and therefore it should be recommended that the development be approved.

6. DOCUMENTS INCLUDED WITH APPLICATION

Annexure 1 – Architectural Plans

Annexure 2 – BASIX Certificate(s)

Annexure 3 – Estimated Cost of Works

Annexure 4 – Flood Information Certificate

Annexure 5 – Bushfire Assessment Report

Annexure 6 – AHIMS Report

Annexure 7 – Acid Sulphate Management Plan / Report

Annexure 9 - Waste Minimisation Plan

Annexure 10 – Statement of Environmental Effects

Annexure 11 – Owners Letter of Authorisation

Annexure 12 – Stormwater Management Concept Plan