

**DEVELOPMENT APPLICATION
AND
STATEMENT OF ENVIRONMENTAL EFFECTS**

**for
Rural Community Title Subdivision**

**at
31 Alidenes Road
Wilson Creek
Lot 38 DP 1059938**

Date: January 2024

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

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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:

Proposed Rural Community Title Subdivision comprising Fifteen (15) Neighbourhood Lots and One (1) Community Lot, Access Roads, Ancillary Works and Ecological Works

The subject property is located 31 Alidenes Road, Wilsons Creek, lawfully described as Lot 38 DP 1059938.

This report addresses the provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act 1979 and 'Application requirements' factsheet prepared by NSW Department of Planning and Environment (dated March 2022).

The application is for Integrated Development, that seeks consent from the following agencies:

- NSW RFS (S100b of Rural Fires Act 1997)
- NSW NRAR (Water Management Act)
- NSW DPI Fisheries (Fisheries Management Act)

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 the owners to prepare a statement of environmental effects and development application for:

Proposed Rural Community Title Subdivision comprising Fifteen (15) Neighbourhood Lots and One (1) Community Lot, Access Roads, Ancillary Works and Ecological Works

The proposal consists of the following main components;

- Fifteen (15) neighbourhood/rural living lots;
- One (1) community lot;
- Associated infrastructure including access roads;
- Ancillary works including earthworks, drainage and services; and
- Ecological protection and enhancement work.

The subject site is located at 31 Alidenes road, lawfully described as Lot 38 DP1059938. The site covers an area of 12.27-hectares and entirely contains Zone RU2 – Rural Landscape under the Byron LEP 2014.

The subject site was relatively recently subject to an approved planning proposal that determined it as being suitable for community title subdivision development under NSW Planning Proposal No. E2021/47677 which was approved by the NSW State Government and Byron Shire Council. The approval permits the creation of a community title scheme on the site comprising up to a maximum of 15 neighbourhood lots with dwelling entitlements and a single common lot.

The planning proposal stage of the project has already undertaken numerous specialist investigations that included a traffic assessment, road safety audit, bushfire assessment, ecological assessment, heritage assessment, contamination assessment, on-site wastewater management assessment and flooding & stormwater assessment. These completed reports and plans were utilised for the planning stage for the development application.

The project is to be completed in a single stage, with proposed works to be conducted under a subdivision works certificate, in accordance with a development consent from Byron Shire Council.

The following table provides a summary of the proposed community title subdivision, as depicted within the attached proposed layout plan.

Table 1: Community Title Subdivision

Lot Number	Lot Type	Status	Area (ha)*
Lot 1	Community Lot	Common Land	2.86
Lot 2	Rural Living Lot	Vacant	0.51
Lot 3	Rural Living Lot	Approved Dwelling	0.62
Lot 4	Rural Living Lot	Vacant	0.5
Lot 5	Rural Living Lot	Vacant	1.12
Lot 6	Rural Living Lot	Vacant	0.6

Lot 7	Rural Living Lot	Vacant	0.42
Lot 8	Rural Living Lot	Vacant	0.42
Lot 9	Rural Living Lot	Vacant	0.42
Lot 10	Rural Living Lot	Vacant	0.31
Lot 11	Rural Living Lot	Vacant	0.31
Lot 12	Rural Living Lot	Vacant	0.40
Lot 13	Rural Living Lot	Vacant	0.55
Lot 14	Rural Living Lot	Vacant	0.48
Lot 15	Rural Living Lot	Vacant	0.81
Lot 16	Rural Living Lot	Vacant	1.94

Primary environmental constraints were assessed during the early stages of the planning process to determine the limitations of the subject site, which resulted in the Yankee Creek riparian corridor to be designated a habitat protection and enhancement management zone.

This report demonstrates, in the context of relevant Council, State Government policies and objectives, and other relevant legislation, the proposal will generate minimal adverse environmental impacts while generating multiple positive impacts.

The proposal is considered to be consistent with Council strategies, and achieves the key aims and objectives of rural land uses in the Byron Shire. The report identifies the issues associated with the proposal and addresses management and mitigation where required.

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.

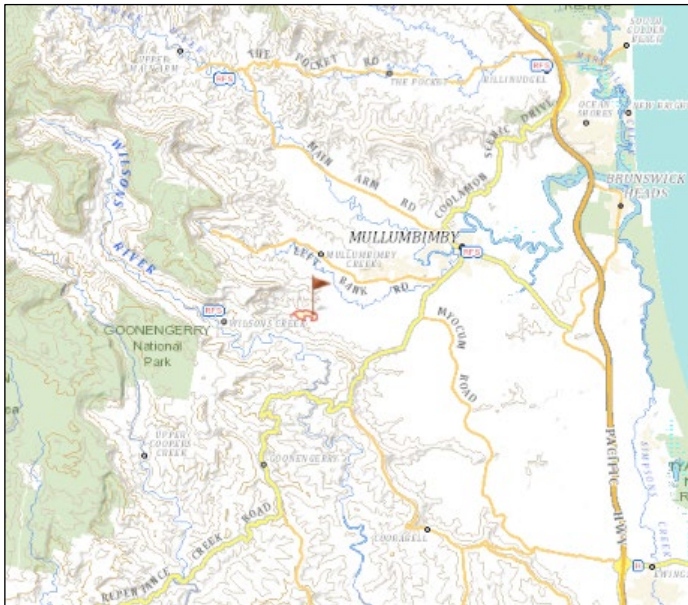


2.2 The locality

The subject site is located within the Byron Shire, approximately 4km south-west of Mullumbimby and 17km north-west of Cape Byron. The property is located within in the lower elevation, eastern district of the Wilsons Creek rural locality with easy access to the township of Mullumbimby via Alidenes Road and Wilsons Creek Road connecting to Coolamon Scenic Drive to the east of the property.

The surrounding land uses predominantly comprises other rural residential lots as well as agricultural land uses and small-scale tourism facilities. The Goonengerry National Park and Koonyum Range are located to the west of the site and the former “Mullumbimby Hydro Electric Power Station Complex” adjoins the southern boundary of the site.

See Appendix A – Illustration 1: Locality Plan



Wider locality (Source: NSW SIX Maps)



Immediate locality (Source: NSW SIX Maps)

2.3 The site

The subject site is recognised as Lot 38 DP 1059938, located at 31 Alidenes Road, Wilsons Creek. The rural allotment covers an area of 12.27-hectares as depicted within the attached deposited plan (Appendix A).

The site has frontage to Alidenes Road on the northern boundary, including two existing road access points, and frontage to Wilsons Creek Road on the south-eastern boundary, of which there is an access road providing access to the neighbouring power station. The property currently contains an existing Council approved dwelling with driveway access connecting to Alidenes Road in the eastern portion of the site.

The site contains a mapped named watercourse being the Yankee Creek which traverses through the site in an easterly direction, Yankee Creek is rated as a 3rd Order watercourse, along with some other unnamed watercourses.

The subject site is depicted in greater in the image below and within the attached plan set in Appendix B.

See Appendix A – Illustration 2: Subject Site, Illustration 3: Topography, Illustration 4: Slope Analysis



Subject Site (Source: NSW Planning Portal)

2.4 Environmental characteristics

The property contains mostly managed grazing land with some patches of regrowth vegetation, mostly along watercourses and old fence lines, which is further analysed and described within Appendix F – Biodiversity Assessment Report and Vegetation Management Plan. The site also contains a significant area that is identified on the NSW Biodiversity Values Map, within the riparian corridor of Yankee Creek. The following environmental mapping extracts depict the vegetation values of the site.

See Appendix A – Illustration 5: Vegetation Communities, Illustration 6: Constraints, Illustration 7: Flood Hazard

- Byron Vegetation Communities map



- High Environmental Value vegetation map

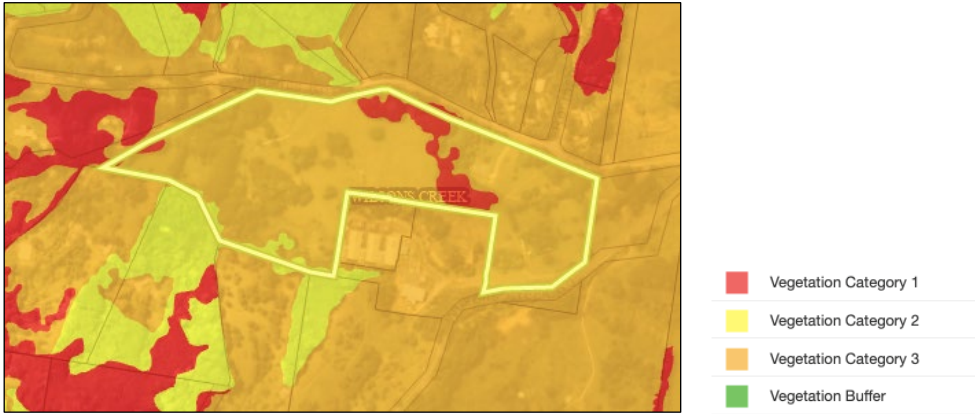


- NSW Biodiversity Values Map



- Bushfire prone land

The property contains bushfire prone land including Vegetation Category 1, Vegetation Category 2 and Vegetation Category 3, with most of the site containing low bushfire hazard vegetation types and slopes.



- Flooding

The site is not identified on Councils Flood Planning map; however, it is known that the property does experience temporary flash flooding events, which is further described within the attached Engineering Civil reports and also shown in Appendix E.



- Acid sulfate soils

The site is not mapped as containing any potential acid sulfate soils



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 development consent for the Community Title Subdivision for the nominated neighbourhood allotments as well as the common land lot;
- Provide for ongoing land management including for the site's rural living areas and natural resources via a suitable internal management regime;
- Service the proposal with suitable vehicular access arrangements from a public road;
- Implement adequate bushfire management provisions for the proposal;
- Provide a suitably set-out and designed property to appropriately manage flood risks and minimise impacts on flood behaviour;
- Protect the existing ecological values on the site while providing a large-scale ecological enhancement works schedule as an integral component of the project;
- Reduce any adverse environmental impacts on watercourses, drainage lines and protect the site's soils;
- 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 seeks development consent from Byron Shire Council for a Community Title Subdivision at the 31 Alidenes Road, Wilsons Creek.

The proposal consists of the following main components;

- Fifteen (15) neighbourhood/rural living lots;
- One (1) community/common lot;
- Associated infrastructure including access roads and services;
- Earthworks;
- Vegetation removal; and
- Ecological protection and enhancement work.

As presented within Appendix B - Illustration 8, the Community Title Subdivision layout contains the following:

- Fifteen (15) neighbourhood lots ranging from 0.31-hectares to 1.94-hectares
- One (1) community lot (common land) of 2.86-hectares

Illustrations 10 shows the proposed Management Zones plan associated with the Community Title Subdivision, which contains the following management areas:

- Rural Living
- Community and Services
- Environmental Habitat

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

The community title property will be comprised of the following allotments, as depicted within Appendix B – Illustration 8. The following Table shows the details of the proposed community title subdivision.

Table 2: Community Title Subdivision

Lot Number	Lot Type	Status	Area (ha)*
Lot 1	Community Lot	Common Land	2.86
Lot 2	Rural Living Lot	Vacant	0.51
Lot 3	Rural Living Lot	Approved Dwelling	0.62
Lot 4	Rural Living Lot	Vacant	0.5
Lot 5	Rural Living Lot	Vacant	1.12
Lot 6	Rural Living Lot	Vacant	0.6
Lot 7	Rural Living Lot	Vacant	0.42
Lot 8	Rural Living Lot	Vacant	0.42
Lot 9	Rural Living Lot	Vacant	0.42
Lot 10	Rural Living Lot	Vacant	0.31
Lot 11	Rural Living Lot	Vacant	0.31
Lot 12	Rural Living Lot	Vacant	0.40
Lot 13	Rural Living Lot	Vacant	0.55
Lot 14	Rural Living Lot	Vacant	0.48
Lot 15	Rural Living Lot	Vacant	0.81
Lot 16	Rural Living Lot	Vacant	1.94

* Areas subject to final survey and Council approval

See Appendix A – Illustration 8: Community Title Layout

The proposed development application is described in greater detail in the following sections.

3.3 Common land and community areas

The community title subdivision includes a large area of the site as common land, identified as Lot 1. Common land will be dedicated for shared private access ways and other shared essential services such as stormwater management, electricity and telecommunications infrastructure.

The nominated Vegetation Management Plan works will be entirely conducted on the common lot, within the Yankee Creek Riparian Corridor vegetation management zone.

The draft Neighbourhood Management Statement within Appendix G has been prepared in accordance with the Community Title legislation and provides direction for the internal administration, functioning and management of the site.

Management of the common land will be undertaken by the neighbourhood association, which is comprised of community members residing within the rural living lots.

3.4 Neighbourhood lots

The 15 neighbourhood (rural living) lots are depicted within Illustration 8 – Community Title Layout. The design and layout of the proposed dwelling capable lots are a result of the detailed land capability assessment and planning design process with input from specialist consultants including bushfire, on-site wastewater, ecological and civil engineering.

All of the proposed rural living lots are vacant except for Lot 3 which contains an existing approved dwelling. All of the vacant allotments have been assessed as containing adequate area for the construction of a dwelling. The attached Illustration 8 – Layout Plan depicts an indicative dwelling envelope, which is non-restrictive, however it demonstrates that all of the proposed rural living lots can support a dwelling building.

The final design and location of each dwelling will be subject to future development applications made to Council. Each lot will have access to the shared internal road system via a suitable driveway, providing a vehicular access connection to Alidenes Road.

The proposed neighbourhood lots are of varying size, dimensions and format, however they will all provide adequate private open space and area to implement essential services. A constraints assessment identified all buffer requirements applicable to each of the rural living lots, and has positioned the indicative dwelling envelope outside of these buffer restrictions.

3.5 Infrastructure

The associated infrastructure for the Community Title Subdivision comprises the following main components:

3.5.1 Vehicular access

Access to the proposed community title property will be provided via two existing driveway connections to Alidenes Road on the northern boundary frontage, the first connection in the north-east of the site will provide access to Lots 2 to 5 (eastern arterial accessway), while the driveway connection in the north-west of the site provides access to Lots 6-16 (western arterial accessway). These two existing public road crossovers connecting to Alidenes Road are safe entry/exit points which will require upgrading to meet Council design standards.

Eastern arterial accessway

- Upgrade of existing crossover to Alidenes Road for eastern entrance;
- Upgrade of existing section of accessway approximately 52 metres in length;
- Construct new accessway approximately 120 metres in length for Lot 4 and Lot 5;
- Upgrade existing farm bed level crossing of Yankee Creek to box culvert design; and
- Construct bushfire turning head.
-

Western arterial accessway

- Upgrade existing crossover to Alidenes Road for western entrance;
- Upgrade existing sealed accessway to Council and RFS standards;
- Upgrade existing Yankee Creek piped causeway crossing to box culvert design and raised crossing level;
- Construct new accessway providing arterial road for Lots 6 to 11 approximately 140 metres in length including bushfire turning head;
- Construct new accessway providing arterial road for Lots 13 to 15 approximately 133 metres in length including bushfire turning head;

Private driveways:

Short driveway entrances are to be provided for each neighbourhood allotment, while Lot 16 is provided a longer driveway construction to a suitable area on the lot for a future dwelling site. The attached Civil Plans show the nominated location of these private driveways on certain lots, however other lots with additional flexibility with the driveway location will be confirmed at the construction design stage.

All of the proposed arterial accessways to be constructed, will comply with NSW Rural Fire Service planning design guidelines, including for bushfire turnarounds, road widths, turning radius and surface material. For future dwelling DAs, if a dwelling is located farther than the required distance to a bushfire truck turnaround, then an additional bushfire turnaround within the allotment may be required.

The attached Civil Design Plans within Appendix E provide a detailed set of plans of the proposed accessways on the site, including the required earthworks in cut/fill estimates to carry out the construction stage. Further detailed designs for stormwater management, watercourse crossings and detailed road designs will be provided as the subdivision works stage of the project, and will require Council certifier approval.

The existing entrance from Wilsons Creek Road in the south-eastern portion of the site, which provides access to the power station via a right of carriageway, will not be utilised to provide vehicular access to the community title property.

3.5.2 Wastewater Management

The on-site wastewater capability assessment within Appendix D demonstrates that the site is capable of accommodating suitable waste water treatment devices for each of the indicative dwelling sites, within the investigated constraints of the land. All rural living lots will be serviced by a compliant on-site wastewater management system that will appropriately manage and treat all wastewater generated by the dwellings.

A detailed wastewater assessment and system design will be undertaken during the Development Application stage for each dwelling while each on-site wastewater management system will require a Section 68 approval from Council prior to installation.

Appendix G provides the Draft Neighbourhood Management Statement that includes management requirements for individual on-site wastewater management systems including maintenance requirements.

3.5.3 Stormwater Management

Each individual dwelling house will require DA approval with on-site stormwater drainage systems suitable for rural properties that must include water tank detention and a compliant stormwater overflow drainage system. Stormwater management infrastructure associated with the access roads will be implemented in accordance with Council's design guidelines.

3.5.4 Water Supply System

Water supply for each future dwelling will be sourced from roof water harvesting and on-site tank storage. Each allotment must implement sustainable water-saving design features within each dwelling building, and a suitably sized domestic water supply be provided within on-site water tanks for each future dwelling. Appendix G provides the Draft neighbourhood management statement that includes management directives for maintaining a safe potable water supply.

3.5.5 Waste Management

The site benefits from access to Council waste management services being, waste truck pick up of waste, recycling and green waste bins. Appendix G provides the Draft neighbourhood management statement for the site that contains management directives for owner/occupiers of the rural living lots in terms of suitable management of waste and bins.

3.5.6 Electricity

The property has ample access points to the Essential Energy electricity grid via poles and wires network, and connection to the network for each allotment will be designed and arranged during the subdivision works stage.

3.5.7 Telecommunications

The property has access to an underground fibre-optic cable that already traverses the property in the northern area of the site. New underground conduit will be installed to service all of the rural living lots.

3.6 Bushfire Management

The development application is accompanied by a S100B Bushfire Assessment report by Sustainable Home Solutions (Appendix C), that has undertaken a detailed bushfire assessment of each of the proposed community title rural living lots and nominated an achievable Bushfire Attack Level (BAL) rating. The assessment has also reviewed bushfire access requirements for the proposed community title subdivision.

The proposal is regarded as suitable in terms of bushfire management requirements, with the overall property having a low bushfire hazard. Each of the rural living allotments are able to support a dwelling site with suitable bushfire rating.

Any future dwelling DAs will require specific bushfire assessment reports to demonstrate that a suitable level of bushfire risk can be achieved with the final dwelling location and suitable design parameters can be implemented. This also includes confirmation of bushfire truck access via a suitably located bushfire turnaround, as well as provision of a static bushfire water supply dedicated to bushfire fighting activities.

See Appendix A – Illustration 9: Bushfire Management

3.7 Vegetation Management

A Vegetation Management plan has been provided as an integral part of the proposed Community Title Subdivision development application and is provided within Appendix F. The Byron DCP 2014 requires that 900 trees or equivalent works be undertaken per dwelling site nominated as part of the community title subdivision. Therefore, a total of 13,500 tree plantings or equivalent works are required to be undertaken. The attached VMP nominates a total of 13,810 rainforest plantings and equivalent works to be undertaken within the Yankee Creek Riparian Corridor vegetation management zone over a period of 5-years. This ecological enhancement work will result in substantially improved ecological and environmental outcomes for the site, flora and fauna habitat and Yankee Creek's watercourse health status which is currently in a highly degraded state from years of over-grazing and historical land clearing.

The proposed Community Title Subdivision does require some vegetation be removed that includes mostly Camphor Laurel some native regrowth trees on proposed Lot 4. The existing vegetation surrounding an old dilapidated farm house in the south-eastern part of the property includes some planted exotic ornamental trees with some native regrowth species, of which all native trees will be offset with additional native plantings, as detailed within Appendix F. There is no removal of any significant native vegetation on the site, and protection of all recognised significant native vegetation.

In summary vegetation management works includes:

- Implementation of a Yankee Creek Riparian Corridor vegetation management plan over a period of 5-years;
- No removal of any native vegetation within the Yankee Creek riparian corridor and protect all existing native trees near the footprint of subdivision civil works on the site;
- Removal of a Camphor Laurel tree and Mango tree on Lot 2 for bushfire APZ;
- Removal Camphor Laurel regrowth along a fence line at the bushfire turnaround at the eastern accessway arterial road near Lot 4 and Lot 5;
- Removal of planted exotic ornamental trees and some regrowth native trees on Lot 4 to be offset with additional native plantings at a ratio of 10:1 within the Yankee Creek riparian corridor;
- Protect existing large Cudgerie and Strangler Fig on Lot 13;
- Protect and enhance habitat of existing Scrub Turpentine on Lot 1 near Lot 5;
- Protect and enhance habitat of Rough-shelled Bush Nut and Red Boppel Nut on Lot 1;

Appendix F – Biodiversity Assessment Report provides a detailed ecological assessment of the proposal.

Appendix F – Vegetation Management Plan contains a detailed plan and analysis of the vegetation management as part of the proposed Community Title Subdivision.

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 S4.15 Evaluation
- 4.5 Consistency with BRSS 2017
- 4.6 Conclusion

4.1 State Environmental Planning Policies

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

4.1.1 SEPP Biodiversity and Conservation 2021

Chapter 3 Koala Habitat Protection 2020 of the SEPP is addressed within the attached Biodiversity Assessment Report and Vegetation Management Plan (BAR and VMP) within Appendix F.

4.1.2 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 SEPP is addressed within the attached Biodiversity Assessment Report and Vegetation Management Plan (BAR and VMP) within Appendix F.

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

A stage 1 - preliminary contaminated site investigation was previously undertaken in 2017 by Ardill Payne and Partners to support a planning proposal for the rezoning of the site. An additional contaminated land assessment report was undertaken by Byron Environmental Consulting. These reports shown within Appendix I concluded that the site is suitable for the proposed residential land use.

4.1.3 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 proposed Community Title Subdivision is considered to be highly consistent with the aims of the Primary Production SEPP. The proposal facilitates the economic use of land with dwelling sites suitably located to ensure primary production values are maintained. Additionally, the proposal includes management directives for on-going land management on the site. The natural resource base will be significantly enhanced as a result of the proposal, currently the site is used for low density beef cattle grazing and does not contain attributes for highly productive agricultural production.

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*

A small portion of the site's eastern edge is mapped as Regionally Significant Farmland. The proposal does not compromise the ability for the site to be used for suitable small scale food growing land uses. The additional resources and human capital can contribute additional inputs into primary production activities on the site. The proposal is unlikely to reduce the agricultural capability of the land given the existing use of beef cattle grazing and the degraded condition of the site. The proposal provides positive outcomes for food, housing, food growing and environmental enhancement on the site.



Mapped state significant farm-land

4.1.4 SEPP Infrastructure 2021

The aim of this Chapter is to facilitate the effective delivery of infrastructure across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) providing opportunities for infrastructure to demonstrate good design outcomes.*

The proposal is regarded as being consistent with the aims of the Infrastructure SEPP.

2.48 Determination of development applications—other development

(1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*

(i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or

(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,

(d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.

(2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—

(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and

(b) take into consideration any response to the notice that is received within 21 days after the notice is given

Electricity and telecommunications lines have been considered in the proposed Community Title Subdivision layout, within the attached Illustration 6 – Constraints. All of the proposed allotments contain suitable space for future dwellings, on-site wastewater management systems, driveway access and other ancillary items without compromising the required setbacks and buffers from these electricity service lines.

4.2 Local Environmental Plan

The Byron Local Environmental Plan 2014 (BLEP 2014) is the principal planning instrument applying to land within the Byron Shire, other than Deferred Matter areas where the Byron Local Environmental Plan 1988 applies.

4.2.1 Byron Local Environmental Plan

The subject property is mapped wholly as **Zone RU2 – Rural Landscape** (refer Section 4.2.4 Zoning below)

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 section 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 LEP 2014 provides the aim and objectives of the plan.

The proposal is considered consistent with the objectives as it enhances social and economic wellbeing and enhances ecological processes on the site, particularly in regards to the Yankee Creek riparian zone where large-scale environmental works will be undertaken. The proposal is a well-planned Community Title Subdivision that is for a property that the Council intends to be utilised as such.

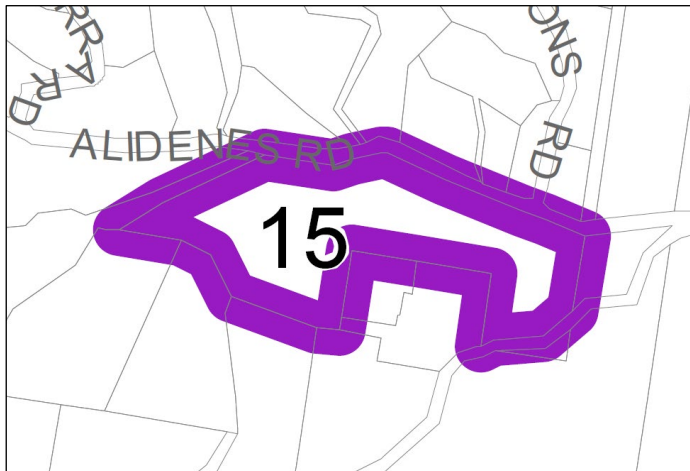
The proposed development is considered consistent with the guiding principles of the BLEP 2014, in particular in regards to ecologically sustainable development.

4.2.3 BLEP 2014 Maps

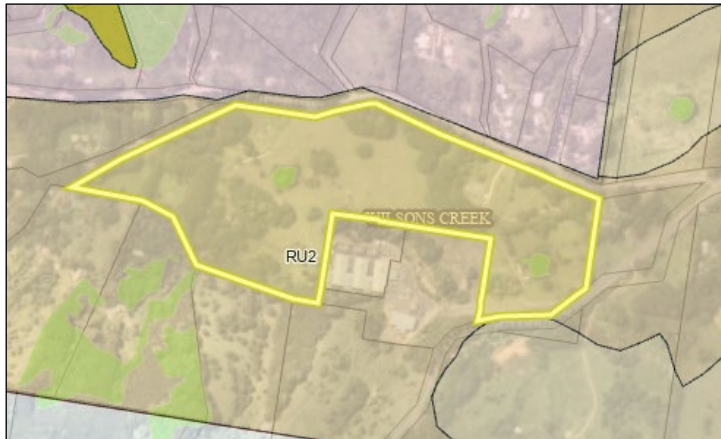
- Zoning – refer Section 4.2 below
- Minimum Lot Size – n/a
- Building Height Limit – 9-metres above NGL
- Floor Space Ratio – n/a
- Drinking Water Catchment – Not located within a drinking water catchment
- Heritage – Adjacent to Mullumbimby Power Station heritage item.



- Community Title map – maximum number of 15 lots

**4.2.4 BLEP 2014 Zoning**

The proposal is entirely located within Zone RU2 – Rural Landscape of the Byron LEP 2014, as depicted in the following zone map extract, while there is a large-lot residential area on the northern side of Alidenes Road.



Byron LEP 2014 Zoning

The objectives Zone RU2 are as follows

Zone RU2 - Rural Landscape

Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *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.*
- *To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.*

This report demonstrated that the proposed Community Title Subdivision is consistent with the applicable objectives of Zone RU2 – Rural Landscape.

- The proposal significantly enhances the natural resource base by providing ongoing sustainable land management for the entire rural property, with the intention of improving the long-term viability of the land's natural resources base, currently in a degraded condition.
- The sites agricultural potential is not compromised by the proposal, considering the concept allows for additional input of resources and on-going management to improve the lands productivity. The proposal provides opportunity for small scale food growing pursuits and gardens on modest sized rural lots.
- The proposed layout of the community title subdivision protects the rural landscape character of the locality, including the scenic amenity. The subject site is relatively hidden due to surrounding topography and vegetation.
- The proposal results in a settlement pattern and land use envisaged for the zone as sought by the above objectives.

4.2.5 BLEP 2014 Provisions

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

Clause 4.1 - Minimum subdivision lot size

The objectives of this clause are as follows—

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

The BLEP 2014 prescribes a minimum subdivision lot size of 40-ha for the subject site. The proposal seeks development consent for a Community Title Subdivision of the land and as stipulated under Clause 4.1 (4) (b), the minimum lot size clause does not apply to subdivisions sought under the Community Land Development Act 2021.

Clause 4.1AA - Minimum Subdivision Lot Size for Community Title Schemes

The objectives of this clause are as follows

- (a) to ensure that land to which this clause applies is not fragmented by ad hoc subdivisions that would create additional dwelling entitlements.*
- 2) This clause applies to a subdivision (being a subdivision that requires development consent) under the [Community Land Development Act 2021](#) of land in any of the following zones—*
 - (a) Zone RU1 Primary Production,*
 - (b) Zone RU2 Rural Landscape,*
 - (c) Zone R5 Large Lot Residential,*
 - (d) Zone SP1 Special Activities,*
 - (e) Zone SP3 Tourist,*
 - (f) Zone E3 Environmental Management,**but does not apply to a subdivision by the registration of a strata plan.*
- (3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 2021) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*
- (4) This clause applies despite clause 4.1.*

The proposal seeks development consent for a Community Title Subdivision within the RU2 – Rural Landscape zone. The proposal achieves the objective of the clause as to not result in unwanted fragmentation of land, considering the property is mapped as suitable for community title subdivision for 15 dwelling sites.

4.1B - Minimum subdivision lot size for multiple occupancy or rural community title developments

- (1) The objective of this clause is to permit the subdivision of land to which this clause applies for a multiple occupancy or a rural community title.*
- (2) This clause applies to land—*
 - (a) outlined by a thick purple line on the Multiple Occupancy and Community Title Map, or*
 - (b) containing an existing approved multiple occupancy or rural community title.*

The proposal seeks development consent for a Community Title Subdivision pursuant to Clause 4.1B.

The subject site is identified on Councils Multiple Occupancy and Community Title Map as shown within section 4.2.3 of this report.

- (3) *The size of any lot resulting from the subdivision of land to which this clause applies may be less than the minimum lot size shown on the Lot Size Map in relation to that land if—*
- (a) *the total number of neighbourhood lots (within the meaning of the Community Land Development Act 2021) located on the land following the subdivision does not exceed—*
- (i) *the number nominated for that land as shown on the Multiple Occupancy and Community Title Map, or*
- (ii) *the number of dwelling sites approved under the development consent for the multiple occupancy or rural community title, and*

The proposed Community Title Subdivision comprises 15 neighbourhood lots and a single community lot, consistent with the nominated number of maximum 15 neighbourhood lots for the site on the Multiple Occupancy and Community Title Map.

- (b) *there will be at least one lot comprising association property (within the meaning of that Act) located within that land following the subdivision that comprises land to be used for the purposes of a recreation area, an environmental facility, agriculture or environmental protection works.*

The proposal includes a community lot that provides land to be use for community areas, services, and ecological enhancement works.

- (4) *Development consent must not be granted under subclause (3) unless the consent authority is satisfied that—*
- (a) *appropriate management measures are in place that will ensure the protection and enhancement of the landscape, biodiversity and rural setting of the land, and*
- (b) *improved social and economic outcomes can be achieved, and*
- (c) *appropriate mitigation measures are in place to minimise land use conflicts, with existing agricultural and other rural land uses being undertaken on the land or neighbouring land, that may arise from further development on the land.*

The proposal includes designated areas for ecological protection and enhancement, community areas and rural living. These management zone areas are directed by the final Neighbourhood Management Statement to ensure appropriate long-term management of the site.

- (5) *In this clause, **approved multiple occupancy or rural community title** means development for the purposes of a multi dwelling housing or community scheme (being a subdivision within the meaning of the Community Land Development Act 2021) and for which development consent has been granted.*

The proposal is undertaken in accordance with this clause enabling Community Title Subdivision of the site. This report and the appendices provide a comprehensive proposal that addresses the provisions of Clause 4.1B.

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 subject site is located within vicinity to the following Heritage Items

- I185 “Power Station and Race” – located on the adjoining property to the south.

The proposed Community Title Subdivision and future dwellings are well buffered from heritage item I185 by existing planted vegetation along the property boundary. The proposal does not detract from the heritage values associated with the item which are located within the power station building.

Clause 5.16 - Subdivision of, or dwellings on, land in certain rural, residential or conservation zones

(1) The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or conservation zones concerned (particularly between residential land uses and other rural land uses).

The proposed Community Title Subdivision is located on a property that has been approved via a Planning Proposal to support a maximum of 15 dwelling capable allotments under a community title management scheme format. This proposal is a result of a lengthy and detailed environmental assessment of the property, to result in a well-considered, low-impact format for the property, that has considered potential land use conflict issues between the nominated layout and the existing surrounding land uses. The property is neighboured by rural lifestyle properties as well as large lot residential properties to the north, with not large-scale agricultural or rural industry land uses located nearby to the site that would result in potential land use conflicts. The proposed Community Title Subdivision is considered to be suitable within the Wilsons Creek locality, with proposed land management including the Yankee Creek Riparian Corridor management zone to generate positive outcomes for land habitat conservation and enhancement.

The proposal is considered to be highly compatible with the surrounding land uses, which are of a similar nature being primarily rural living and rural residential.

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 proposal has adopted detailed flooding modelling of the site as part of the constraints assessment stage, and provided a community title layout plan that responds to the known flooding constraints of the land. All of the proposed community title allotments have suitable land that is free from flood hazard for a future dwelling site. The proposal includes accessways that provide a suitable level of access to the site in the event of a flood situation, that is consistent with accessibility of the public road system. The proposed civil works on the site have utilised the existing topography to reduce the extent and volume of earthworks cut and fill to reduce potential impacts on flood behaviour on the site. It is regarded that the proposal is compatible with the existing flood function and behaviour on the land. The proposal will not generate adverse impacts on other developments or properties. The proposal will ensure that occupants of the Community Title have an active flood management and evacuation plan in place. The proposed Vegetation Management Plan will provide significant positive impacts on the flood nature of Yankee Creek and help reduce soil erosion and destruction of existing scattered riparian vegetation as well as protect the integrity of creek banks. The proposal will not add a significant adverse impact on the locality in terms of cumulative flooding impacts.

Clause 5.21 - Special flood considerations

The objectives of this clause are as follows—

- (a) to enable the safe occupation and evacuation of people subject to flooding,*
- (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,*
- (c) to avoid adverse or cumulative impacts on flood behaviour,*
- (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,*
- (e) to avoid adverse effects of hazardous development on the environment during flood events.*

The proposal has been designed to conform to the flood hazard conditions of the subject site and to ensure for the future safe occupation of the site.

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 bulk earthworks for the construction of the proposed vehicular access infrastructure, as depicted within the attached Civil Design plans. The design proposed has aimed to reduce the volume of earthworks, keeping cut and fill works to a minimum by utilising suitable access routes that require less earthworks and also by upgrading existing access roads and farm tracks where possible.

The attached engineering services plan shows the proposed layout and depicts the civil works required to construct the internal access ways including an earthworks concept plan.

A suitable soil erosion and sediment management plan will be implemented during the construction phase.

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,*

Water supply will be provided by means of roof water harvesting and onsite water tank storage.

- (b) the supply of electricity,*

Telecommunications and electricity supply are available to the property.

- (c) the disposal and management of sewage,*

The dwelling sites will utilise on-site wastewater systems, to be individually approved by Council at dwelling DA stage.

- (d) stormwater drainage or on-site conservation,*

Stormwater management will occur in accordance with Council requirements for stormwater.

- (e) suitable vehicular access.*

Suitable vehicle access complying with Council and RFS requirements is provided.

Each of the proposed lots will have access to all necessary services. The proposal is consistent with Clause 6.6

4.3 Development Control Plan

The Byron Development Control Plan (DCP) 2014 applies to the development, being 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.

Table 1: DCP 2014 Compliance table

Control	Comment	Complies
Chapter B1 Biodiversity	See attached Appendix F – BAR and VMP.	Yes
Chapter B3 Services	All essential services are available to the site. See response to Clause 6.6 (BLEP 2014).	Yes
Chapter B4 Traffic planning, Vehicle Parking, Circulation and Access	The attached engineering services report, hydraulic assessment, and vehicular access plans (Appendix E) show that the proposal is compliant with the relevant sections of Chapter B4. Safe entry and exit points can be provided to service the 15 dwellings on the neighbourhood lots. Internal access roads will be designed and constructed to the Northern Rivers Design Manual and other applicable Australian Standards. Future driveways to each dwelling will be designed in accordance with Council design standards. The proposal can achieve suitable road way access design in regards to flash flooding events in the locality, with the proposed Yankee Creek crossings matching the existing Council Yankee Creek crossing design event level on Alidenes Rd. A Road Safety Audit and Traffic Impact Assessment are attached within Appendix H.	Yes
Chapter B6 Buffers and Minimising Land Use Conflicts	There are no nearby land uses that require a detailed LUCRA assessment and the proposal is consistent with the surrounding land uses in the locality.	Yes

Control	Comment	Complies
Chapter B8 Waste Minimisation and Management	Appendix G contains the draft NMS that contains provisions regarding waste pickup / collection by Council services vehicles and the ongoing storage and management of on-site waste.	Yes
Chapter B14 Excavation and Fill	All earthworks on the site will be undertaken based on final construction design drawings at the subdivision works stage. The proposal will implement suitable site erosion and sedimentation management plans during construction phase.	Yes
Chapter C2 Areas affected by Flood	The attached Engineering Services report and Hydraulic Assessment report addresses flood access requirements on the site within Appendix E.	Yes
Chapter C3 Visually prominent sites, visually prominent development and view sharing	The site is not on a visually prominent site and the proposed dwelling sites do not break the skyline from public viewing areas. The proposal raises no concerns regarding visual impacts and impacts on rural character are minimal.	Yes
Chapter C4 Drinking Water Catchment	The subject site is not located within a mapped drinking water catchment area.	Yes

Chapter D6 – Subdivision

D6.2.1 Subdivision Design Guidelines

Objectives

- 1. To specify development controls, design guidelines and criteria that apply generally to subdivisions.*
- 2. To ensure that subdivision proposals deliver contemporary construction and services standards and result in development that is consistent with the particular needs, character and environment of Byron Shire.*

The proposal has been carefully designed in relation to the identified environmental and manmade constraints on the subject site, and is regarded as being consistent with the objectives of the subdivision design guidelines.

Prescriptive Measures

Development applications for subdivision must address the following Design Guidelines:

1. Site Design

The layout of the proposed community title subdivision has taken into consideration all of the environmental factors including topography, drainage, flooding, vegetation and aspect, as well as the manmade factors including power infrastructure, access and requirements for future services.

The proposal makes use of two access locations to Alidenes Road on the property to provide for more efficient vehicular access ways without the requirement for large-scale vegetation removal or earthworks. Driveway accessways are consolidated to provide access to multiple allotments from the two nominated crossovers connecting to Alidenes Road.

The proposed allotments do vary in overall size and shape, in responding to the natural features of the site, and also provide some variability in the resulting allotments available for new community members.

Overall, the subdivision design is considered to be highly compatible with the land, considering the extensive constraints assessment and specialist assessment reports that contributed to the finalised proposal.

2. Climate Control and Aspect

All of the proposed neighbourhood allotments will have good to excellent aspects and solar access, so that proposed dwellings can be orientated northwards and overshadowing of neighbouring lots is minimised.

3. Hazards

All of the primary hazards of concern, being flooding and bushfire on the subject site, have been considered from very early on in the planning process, in regards to the subdivision layout design, including safe access and egress to and from the property to the public road network.

4. Vegetation removal

The attached Vegetation Management Plan provides further details on vegetation management including removal as part of the development application. The subdivision design successfully minimises the loss of trees on the property, in particular native vegetation protection has been prioritised from the beginning, that includes implementing suitable buffers from any important native vegetation such as native riparian vegetation and also any large native trees.

5. Riparian Buffers and land fronting watercourses

The key riparian areas on the site, being the Yankee Creek riparian corridor has been nominated as an environmental protection and enhancement zone on Lot 1. The development control recommends that the riparian corridors must be left undisturbed, however in this case there is a requirement to cross the Yankee Creek in two locations, despite this the remainder of the corridor will be enhanced. Other watercourses and drainage lines on the site will also not be impacted by removal of any native vegetation.

6. Landscaping

The attached Neighbourhood Management Statement within Appendix G contains some management directives for landscaping for future owner / occupiers of the community title rural living lots.

As part of the civil construction works, street trees may be planted in suitable locations following road construction to provide enhancement of the accessways.

7. Roads

The attached Civil Engineering Reports and plans within Appendix E contains a design of the proposed accessways on the site that are suitable for the modest number of lots proposed, and the result in a suitable works footprint on the site, with the aim to reduce the size, scale and bulk of earthworks to generate a minimised environmental footprint on the land.

8. Street Lighting

Street lighting is not proposed as part of the proposal.

9. Public open space and public reserves

The proposal does not include public open spaces or public reserves, as the property will be a Community Title Subdivision.

10. Stormwater Management

The accessways will incorporate suitable stormwater management devices to protect downstream aquatic ecosystems from soil erosion and sedimentation.

11. Utility Services

All of the required utility services, being electricity and telecommunications are available to the property.

12. Provision of Potable Water Supply

The proposal will not be connected to town water supply, and potable water supply will be provided via on-site water tank storage.

13. Sewer

The proposal will not be connected to town sewer infrastructure and will implement sustainable on-site wastewater management systems to protect the environment.

14. Geotechnical Report

The property contains mostly flat land to gentle sloping land, and is not subject to any significant land slip hazards. A geotechnical report will be conducted for each of the proposed lots at the subdivision works / certificate stage.

15. Strata Title, Community Title and Stratum Subdivision

See section D6.3.5 in relation to rural community title subdivision.

D6.3.5 Rural Community Title Subdivision**Objectives**

The objective of this Section is to provide guidelines for rural Community title subdivision including the conversion of existing approved multiple occupancies to community title under the Community Land Development Act 2021.

The proposal seeks development consent for a rural Community Title Subdivision as stipulated under the Community Land Development Act 2021.

Performance Criteria

- 1. Rural community title subdivision under the Community Land Development Act 2021, should demonstrate compliance with the relevant guidelines and performance standards contained in Sections 6.2, 6.3 and Sections 8.1 – 8.6 of the Byron Rural Settlement Strategy 1998.*
- 2. The conversion of existing approved multiple occupancies to rural community title subdivision under the Community Land Development Act 2021 should demonstrate compliance with the objectives contained in Sections 6.2, 6.3 and Sections 8.1 – 8.6 of the Byron Rural Settlement Strategy 1998.*

Section 4.5 of this report addressed the consistency of the application with the relevant guidelines and objectives of the BRSS 2017, considering that the property was part of the 2017 strategy to provide additional rural living opportunities.

Prescriptive Measures

- 1. The maximum number of lots resulting from the Community Title subdivision of rural land (including the conversion of existing approved multiple occupancies to rural community title subdivision) must not exceed the number of approved house sites (excluding the neighbourhood lot/common land) identified in the multiple occupancy approval in relation to the land concerned, or the number of lots identified under the Byron LEP 2014.*

The proposal comprises 15 neighbourhood (rural living) lots and 1 common lot, which is consistent with the Byron LEP 2014 Multiple Occupancy and Community Title Map.

- 2. Consent must not be granted to a development application for rural Community Title subdivision under clause 4.1AA of Byron LEP 2014 unless the Council has considered the following information in relation to the proposed development:*

- a) a water management plan;*
- b) an on-site sewage management plan in accordance with the requirements of Chapter B3 Services;*
- c) a waste management plan;*
- d) a vegetation management plan and planting requirements;*
- e) a bushfire management plan;*
- f) measures to address the unauthorised/ unapproved illegal construction and occupation of dwelling houses. Where such dwellings are to remain as part of the development and not be demolished, a detailed engineers report and certification is to be submitted with the development application demonstrating the dwelling is structurally sound, how it meets the relevant provisions of the Building Code of Australia, and/or what works are proposed to upgrade the building to a safe standard. Such works are to be completed prior to the issue of a subdivision certificate for the Community Title Development;*

The required management plans are provided within the appendices of this report as follows;

- Neighbourhood Management Statement (Draft)
- Bushfire Management Plan
- Vegetation Management Plan

The existing dwelling on the site is approved by Council under a development application.

- g) a draft neighbourhood management statement consistent with the Community Land Development Act 2021, including but not limited to the following:*

- i) provision for bushfire management;*
- ii) a prohibition on domestic cats and dogs or provisions providing for their management;*
- iii) provision for environmental repair and enhancement;*
- iv) provision for waste management;*
- v) provision for water management;*
- vi) provision for on-site sewage management;*
- vii) provision for design and construction of any new dwellings;*

viii) provision for safe vehicular access and driveways in accordance with Northern Rivers Development and Design Manual.

Appendix G provides the draft Neighbourhood Management Statement in accordance with the matters listed in the provision

3. Where vegetation management works have been completed previously as part of a development application, credit will be given against those works. Details are to be submitted with the development application demonstrating that the aims and objectives of the previously completed vegetation management works have been achieved.

Appendix F provides the Vegetation Management Plan for the site, providing for a 5-year management plan as well as ongoing management for improved ecological outcomes within the nominated Yankee Creek Riparian Corridor.

4. In this Section, Community Title Subdivision means subdivision in accordance with the Community Land Development Act 1989.

The proposal will be conducted in accordance with the *Community Land Development Act 2021*.

See Appendix A – Illustration 10: Management Zones

4.4 S4.15 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 to various section of this report and appendices

In summary, the proposed Community Title Subdivision is considered consistent with the aims of the LEP, the applicable zone objectives and LEP special provisions.

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

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

The proposal has also considered the requirements of any applicable NSW legislative act including the NSW Rural Fires Act 1997, NSW Biodiversity Conservation Act 2016, NSW Water Management Act and NSW Fisheries Act.

The Community Title Subdivision can be implemented on the site with minimal adverse environmental impacts, which is due to an extensive planning stage, that has strongly factored the environmental constraints of the land and made progressive changes to the proposal over a significant time period to result in the finalised product.

(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 proposed Community Title Subdivision does not pose any significant adverse impacts on natural ecosystems or negatively impact any of the identified threatened species on the site. Flora and fauna on the site will be protected and enhanced as a result of implementing the integral Vegetation Management Plan on the site. The proposal aims to restore the biodiversity values and ecological functions of the site, by undertaking large-scale ecological works within the Yankee Creek riparian corridor. The existing biodiversity values on the site are at risk from key threatening processes primarily being grazing pressures and the degradation of habitat.

○ Rural Character and Scenic Amenity

The existing rural character and scenic amenity of the immediate locality will not be adversely impacted by the proposed Community Title Subdivision. The proposal includes 15 rural living lots that are well designed and located to avoid adverse impacts on the existing rural amenity. The subject property is already screened well from any public viewing areas. Any future dwellings accompanied with additional landscape plantings are highly unlikely to generate negative impacts on views or privacy. The property is located amongst other large-lot residential zoned land and additional dwelling buildings are not out of place within the existing landscape.

○ Wastewater Management

The attached land capability assessment within Appendix D demonstrates that the site is capable of accommodating suitable waste water treatment for each of proposed lots to ensure that downstream aquatic ecosystems are protected. All future on-site wastewater management systems will be designed in accordance with Council design guidelines, installed under Council approvals and constructed to strict design specifications and Australian standards.

- Traffic impacts

The proposal will generate minimal adverse impacts on the local traffic network, whereby the existing Alidenes Road contains a low level of traffic, the additional generated traffic can be sustained by the local road network without detrimental effects to traffic safety and usability, with appropriate upgrades to be implemented where required. The additional traffic generated by the proposal is considered to be appropriate for the local road network. Suitable measures will be implemented to allow for safe access and egress to the site. The additional 15 rural living lots with single dwelling indicative envelopes is deemed to be suitable by Byron Shire Council, who have allocated a potential 15 to 30 dwelling capability within the BRRS 2017.

- Social and economic effects

The proposal will result in significant positive social and economic impacts for the local community by providing opportunity for additional sustainable dwellings in the Byron Shire where housing is desperately required. The proposal will allow for the provision for additional housing in a sustainable development format, to provide housing options for local families and others.

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

This report and the accompanying specialist assessments demonstrate the suitability of the site for the proposed Community Title Subdivision. The proposal is considered to be a reasonable and satisfactory outcome for the property that is mapped to allow for 15 community title lots.

In regards to the surrounding land uses in the locality, that includes nearby Zone R5 – large lot residential, the proposal is deemed to be suitable and can co-exist with these existing surrounding land uses.

The proposed physical works, including construction and upgrade of roads and other services, has been designed to be of a low-impact design on the site, to minimise earthworks, tree removal and other potentially adverse impacts on the environment.

The community title subdivision format allows for suitable long-term management provisions to be implemented via the Neighbourhood Management Statement that is attached to the title of the property once registered as a community title.

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

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

(e) the public interest.

The proposal is considered to be in the public interest as it is consistent with planning policy, objectives and provisions.

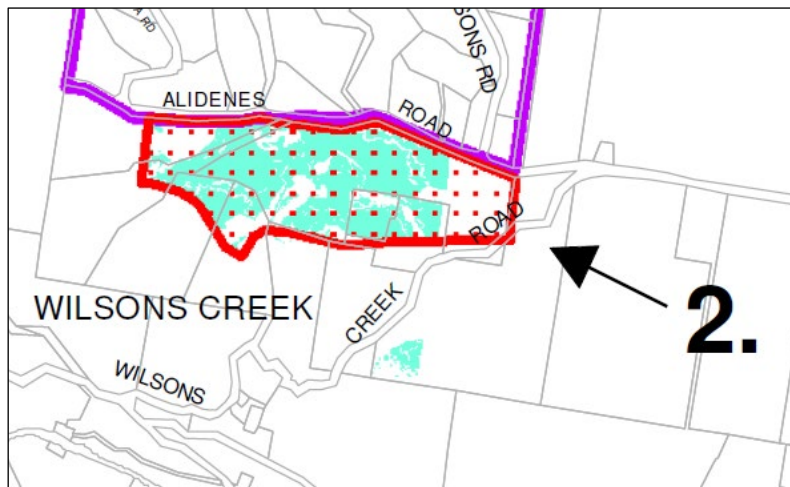
The proposal generates an additional 15 low-impact, sustainable allotments within a Community Title scheme, without causing significant or long-term adverse environmental impacts to the environment.

4.5 Consistency with BRSS 2017

This section provides an assessment of the proposal in the context of the Byron Rural Settlement Strategy 2017. The subject site is listed as item 2 within Table 10 of the BRSS 2017, as a priority site within the Byron Shire for future rural lifestyle opportunities. The proposal aims to achieve collective, coordinated management of the land, environmental repair and enhancement and community self-reliance, as demonstrated in this development application submission. The proposal is regarded as being consistent with the provisions of the BRSS 2017. The proposal in its current format nominates a potential dwelling yield of 15 dwellings contained within the 15 neighbourhood lots, which is at the lower end of the BRSS 2017.

Table 10: Priority sites for future rural lifestyle living opportunities

Map 3 Reference	Locality	Potential Dwelling Yield (c)	Intersection requiring assessment
1.	McAuleys lane / Bilin Road, Myocum	25-45	Intersection of McAuleys Lane and Mullumbimby Road
2.	Wilsons Creek / Alidenes Rd	15-30	Intersection of Alidenes Road and Wilsons Creek Road
3.	Coopers Shoot Road, Coopers Shoot	- (a)	Not applicable
4.	Linnaeus Estate site Broken Head Road, Broken Head	- (b)	Not applicable
	TOTAL (approximate)	40-75 dwellings	



4.6 Conclusion

The proposed Community Title Subdivision is permissible within Zone RU2 – Rural Landscape of the BLEP 2014 and is consistent with relevant planning provisions that are applicable to the subject site. The proposed Community Title Subdivision layout results in positive outcomes for the future occupation of the land in the mixed land use format. The development application has successfully addressed all of the relevant planning provisions and development controls relating to the proposal and is supported by specialist reports and technical assessments, the proposal does not result in unwanted impacts on the environment. It is considered that the proposal is in the public interest considering the Council intention of the site to be approved as a Community Title Subdivision, the proposal represents the best possible outcome for the site in this context.

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APPENDIX A – Deposited Plan

APPENDIX B – Illustration Plan Set

APPENDIX C – Bushfire Assessment Report

APPENDIX D – On-site Wastewater Capability Assessment

APPENDIX E – Civil Engineering Reports

APPENDIX F – Biodiversity Assessment Report and Vegetation Management Plan

APPENDIX G – DRAFT Neighbourhood Management Statement

APPENDIX H – Road Safety Audit & Traffic Impact Assessment

APPENDIX I – Contamination Assessment Reports