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**Sec 4.55 1(A) Application and
Statement of Environmental Effects
Consent 10.2022.574.1 PAN-295775
dated 1 September 2023**

**Removal of Existing Dwelling and Shed, Construction of
a Detached Dual Occupancy, Strata Subdivision and
Tree Removal with ancillary works.**

**Lot 5 Sec 54 DP 758207
No 26 Cavvanbah Street Byron Bay**



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Zoning & Locality Plan

Removal of Existing Dwelling and Shed, Construction of a Detached Dual Occupancy and its Strata Subdivision, and Tree Removal.

Lot 5 Sec 54 DP 758207 No 26 Cavvanbah Street Byron Bay



1. Introduction

On behalf of my clients, the owners of 26 Cavvanbah St Byron Bay, I have prepared this report is to accompany a Section 4.55 1(A) Application for Approval of the relocation of the Pool, the laundry and the pool pump room in house one (1) house 2 changes entail relocation of the ensuites and the addition of an outdoor shower. These amendments for assessment under Section 4.55 of the E.P.A. Act, seek approval in addition to consent 10.2022.574.1 PAN-295775 issued 11 September 2023 for the removal of the existing dwelling and shed, construction of a Detached Dual Occupancy and its Strata Subdivision, including some tree removal, on Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St. Byron Bay, which has an area of 803.2m2.

As discussed the amendments only involve the relocation of the Pool, the laundry in house one (1) and the pool pump room, house 2 changes entail relocation of the ensuites and the addition of an outdoor shower. With the eight (8) trees to be removed and two (2) relocated, with compensatory plantings proposed.

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



The approved Detached Dual Occupancy & Strata Subdivision will retain the existing approved style which blends in with the local environment and other houses in the area.

These design features meet the underlying objectives of the Environmental Planning and Assessment Act, and indeed those of the *Zone R3 Medium Density Residential* within which both houses are located.

The property is also located within a Bushfire Mapped area (See Bushfire Assessment which forms part of this report).

The final resultant development is that of a low scale permissible landuse, which in essence emulates the existing built form and character of the area, and therefore the sites development is in keeping with the established settlement pattern of the community, and mirrors the established land usage.

Adequate parking is available by providing a single car carport parking space adjacent to the secondary dwelling, in addition to the existing car parking to meet DCP 2014 requirements for the existing dwelling.

It is considered that the existing established Vegetation, Screen Plantings and Shade Trees are more than adequate and adhere with Chapter B9 Landscaping, Byron Shire DCP 2014 and provides the proposed Detached Secondary Dwelling with privacy and visual softening. However, additional compensatory plantings are proposed as per the landscape plan.

A similar approval has previously been issued for the site being Consent 10.2022.574.1 PAN-295775 dated 1st September 2023 being for the "*Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision*".

The original proposal still comprises the removal of the existing dwelling in the central north of the site, the removal of the existing shed in the south east of the site, the removal of six (6) trees and palms from within the site, and three (3) in the road reserve to the north west of the site to achieve driveway access.

Once cleared, the development of the site will involve the construction of two (2) free standing Dwellings as Detached Dual Occupancy, with separate access to each dwelling via Cavvanbah Street and Cavvanbah Lane respectively, and the provision of Compensatory Landscape Plantings of Native trees endemic to the local area. The development will then be Strata Subdivided.

We consider that the Detached Dual Occupancy and its Strata Subdivision will in no way adversely affected the amenity of the area, as its design is similar to adjacent new buildings to the south east and south west, with no loss of solar access to adjoining properties, and a similar development has previously been approved under Consent DA10.2022.574.1 PAN-295775 determined 1 September 2023.

The two (2) dwellings meet Councils LEP and DCP provisions as detailed in the following sections of this report, and despite the site being flood prone, all habitable floor areas are raised above flood level to ensure compliance with Council requirements.

2050 Flood Planning Level for the area is 2.82m AHD. The minimum compliant floor levels proposed are Northern Dwelling 1 – 3.1m AHD; Southern Dwelling 2 – 3.1m AHD.



The design incorporates native plantings within the site to compensate for tree removal, many of which are non native, or do not occur in the Coastal Heath and Littoral Rainforest vegetation of the area. The compensatory planting will ensure that biodiversity within the area is maintained and the development is visually softened.

As the proposed Dual Occupancy Development mirrors the planned landuse character of the area and adjacent Residential approvals in this section of the town of Byron Bay (in particular the large adjacent B&B to the west, and adjacent Dual Occupancy and Multi Dwelling Housing developments to the south east and south west), and as the works associated with the proposed development are to take place on generally existing cleared or developed areas of the site, then the conclusion is that this sensitive two level development will have minimal impact on the environment of the area.

The property is partly affected by flood, bushfire, and by coastal erosion buffers, and to this end detailed reports are included in this application.

The compensatory plantings proposed will broaden the habitat base of the site and visually soften and partly screen the proposed development. This landscaping also accords with DCP 2014 requirements for the landscaping of Dual Occupancy development, and meets Basix Certificate Requirements.

TREES TO BE RETAINED are

Northern Boundary

One – Brachychiton acerifolius (Flame Tree)

One – Frangipani (Plumeria alba)

One - Cupaniopsis anacardioides (Tuckeroo)

Proximate to Pool & Solar Access

Southern Boundary

One – Macadamia tetraphylla (Macadamia Nut)

One – Frangipani (Plumeria alba)

Western Boundary

Two – Cupaniopsis anacardioides (Tuckeroo)

TREES TO BE REMOVED are

Southern Boundary

One - Cupaniopsis anacardioides (Tuckeroo)

Two - Toona australis (Red Cedar)

Reason

Under Dwelling Footprint
Within Driveway

Northern Boundary and North West

One - Frangipani (Plumeria alba)

One – Archontopoenix cunninghamiana (Bangalow Palm)

Parking
Proximity to Dwelling

North West Road Reserve

One – Brachychiton acerifolius (Flame Tree)

Two – Non Native sp.

Proximity to Driveway
Proximate to Driveway

Both Dwellings are to have Colorbond roofs “Windspray”, with Vertical Sycon Cladding to be painted “Light Grey”. These colours match the dominant colour schemes of this eclectic residential area.

The proposed Northern Dwelling 1 is to have a Floor Area of 232.94m².

The proposed Southern Dwelling 2 is to have a Floor Area of 286.24m².



Total Calculable Floor Area of 479.59 on this 803.2m² site achieves a Floor Space Ratio of 0.60 :1.

This floor area does not exceed the 0.6 :1 floor space ratio for the site under LEP 2014, within this R3 Medium Density Zoned site. Therefore compliant.

The proposed dwellings each achieve two (2) vehicle parking spaces each and access via separate driveways off Cavvanbah Street in the north and Cavvanbah Lane to the south.

These four (4) car spaces meet Councils requirements under DCP 2014.

The buildings proposed are compliant in the main in relation to the building height plane, with only a minor eave encroachments to the south, and combined with the tapered form of the buildings, achieves soft architectural lines, and no loss of solar access, there is no overlooking as this is proximate to the laneway and such the intent of the Building Height Plane provisions within DCP 2014 are met by the proposal.

The two (2) new dwelling designs afford:

- * maximise provision of northern living areas as well as internal yard areas which enjoy good solar access, and both achieve energy efficient solar hot-water and power systems (See Basix).
- * the design maintains sufficient land between the two dwellings for open space and residential amenity.

- * the design reduces the potential for the dwellings to detract from the amenity of adjacent dwellings by maintaining a detached dwelling style, which also blends into the character of the area.

- * the design achieves extensive landscape plantings to compensate for the nine (9) trees to be removed, and to maintain the amenity of the area and the streetscape.

- * to achieve a blending style for the two dwellings with adequate fenestration to maintain continuity with both old and newly constructed adjacent dwellings, and

- * it achieves an architectural style which blends into the pattern of development within this urban area, where B&B, Holiday Accommodation and Dual Occupancy developments are common, with similar design styles approved by Council to the south east and south west.

As such, the development can be seen as meeting the intent of Councils D.C.P. 2014, requirements. The site has no habitat areas of significance, and the new native plantings proposed will achieve local habitat area, and achieve a blending residential amenity.

1.1 Sec 4.55

The amendments which lessen site works (from slab to piers), and achieve better passive solar design outcomes, are the principal reasons in support of the Sec 4.55 Application.

These changes to Consent 10.2022.574.1 PAN-295775 dated 1st September 2023 being for the "Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay" can be made without changing the approved use, and it achieves the same previously approved development for the site, and no change in the nature of the approved landuse results, as it will remain a "Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision".



Based on this, it is put to Council that the amended proposal still represents the Same Development as that approved on this site.

To assess a development application in terms of whether it was substantially the same, the Court in Tyagrah Holdings Pty Limited v Byron Bay Shire Council (2008) NSWLEC 1420, judgment of Commissioner Bly, in which Commissioner Bly conveniently summarises at para 10:

"The provisions of s 96 have been judicially considered on a number of occasions and the following are the relevant important findings or principles that can be utilised in considering whether or not a particular development is substantially the same development as the development for which the consent was originally granted:

1. The word "substantially" means essentially or materially having the same essence. In assessing whether the test is met a factual comparison between the approved development and proposed modifications is required.

(In this instance, the approved "Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision" landuses remain unchanged. As such it is "Substantially the same").

2. The question must be asked and answered with respect to the particular circumstance of the individual modification application.

(Again, the approved "Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision" landuses remain unchanged. As such it is "Substantially the same Development").

3. It is for the decision maker to decide the relevant range of facts to assist in determining the question.

The modification of the Consent by the change of the location of the Pool, the laundry and the pool pump room in house one (1) (Northern Dwelling) and house 2 (Southern Dwelling) changes are the relocation of the ensuites and the addition of an outdoor shower to minimise impact and optimise passive solar design, does not change the nature of the "Detached Dual Occupancy" approved by DA 10.2022.574.1 PAN-295775 Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay does not change the approved development, and all other aspects of the application remain unaltered, and the same form and outcome is achieved).

4. Even though certain modifications of development may be described as significant this does not mean that the modified development could not necessarily remain substantially the same as the approved development. A comparison process involves an appreciation of both qualitative and quantitative.

The change of the location of the Pool, the laundry and the pool pump room in house one (1) (Northern Dwelling) and house 2 (Southern Dwelling) changes are the relocation of the ensuites and the addition of an outdoor shower approved by Consent DA 10.2022.574.1 PAN-295775 dated 1 September 2023 on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY.

All other aspects of the application remain unaltered, and the same form and outcome is achieved, and only minor modifications to the Consent result, in the lessening of environmental impact, then it is "Substantially the same", and no significant departures occur).

5. Any planning appraisal of the modified development is not relevant to the threshold question." Commissioner Bly notes at para 12:

"Each of these changes is significant in its own way but this does not in itself mean that the modified development is not substantially the same."



On this basis as the *modification of the Consent by the change of the location of the Pool, the laundry and the pool pump room in house one (1) (Northern Dwelling) and house 2 (Southern Dwelling) changes are the relocation of the ensuites and the addition of an outdoor shower approved by Consent DA 10.2022.574.1 PAN-295775 dated 1 September 2023 on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY do not change the nature of the "Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision approved by Consent 10.2022.574.1 PAN-295775 1 September 2023, on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY.*

The fact that this requested reorientation does not change the approved use or alter the size or location of the approved landuse, and as the same previously approved landuse still results, then it is considered that the amended proposal still represents the Same Development as that approved.

1. Section 4.55 Application

Section 4.55 of the Environmental Planning and Assessment Act, so far as is material to the development proposed provides as follows:

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and



(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

1.2 Section 4.55 Application

This Sec 4.55 Application seeks to *change the location of the Pool, the laundry and the pool pump room in house one (1) (Northern Dwelling) and house 2 (Southern Dwelling)* changes are the relocation of the ensuites and the addition of an outdoor shower *approved by Consent DA 10.2022.574.1 PAN-295775 dated 1 September 2023 on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY do not change the nature of the "Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision approved by Consent 10.2022.574.1 PAN-295775 1 September 2023, on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY.*

Thus the changes sought do not change the approved use, and it achieves the same previously approved development for the site, and no change in the nature of the approved landuse results.

This does not change the approved development, and all other aspects of the application remain unaltered, and the same form and outcome is achieved.

It is requested that the following modifications are effected, namely:

Current Condition 1. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Description	Prepared By	Dated
SK7-P1	Site Plan and Tree Removal Plan	Design Evolutions	16-12-2022
SK7-P2	Elevations	Design Evolutions	16-12-2022
SK7-P3	Level 0 – Subfloor	Design Evolutions	16-12-2022
SK7-P4	Level 0 – Floor Plan	Design Evolutions	16-12-2022

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



SK7-P5	Level 1 – Subfloor	Design Evolutions	16-12-2022
SK7-P6	Level 1 – Floor Plan	Design Evolutions	16-12-2022
SK7-P7	Roof Plan	Design Evolutions	16-12-2022
SK7-P8	NW Elevations, Section A1, A2	Design Evolutions	16-12-2022
SK7-P9	SE Elevations, Section A3, A4	Design Evolutions	16-12-2022
SK7-P10	Dwelling 1 Elevations NE, SE, Dwelling 1 Sections B1-B4	Design Evolutions	16-12-2022
SK7-P11	Dwelling 2 Elevations NE, SW, Dwelling 2 Sections B1-B4	Design Evolutions	16-12-2022
SK-P17	Strata Subdivision Plan	Design Evolutions	16-12-2022
D01/A to D05/A	Stormwater Drainage (as amended in red)	NB Consulting Engineers	19-12-2022
SK4-P4	Draft Landscaping Plan	Design Evolutions	19-12-2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.



Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Amended Condition 1 Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Description	Prepared By	Dated
Sec4.55-P1	Site Plan	Design Evolutions	12-04-2024
Sec4.55-P2	Site Elevations	Design Evolutions	12-04-2024
Sec4.55-P3	Level 0 – Subfloor	Design Evolutions	12-04-2024
Sec4.55 - P4	Level 0 – Floor Plan	Design Evolutions	12-04-2024
Sec4.55 - P5	Level 1 – Subfloor	Design Evolutions	12-04-2024
Sec4.55 - P6	Level 1 – Floor Plan	Design Evolutions	12-04-2024
Sec4.55 - P7	Roof Plan	Design Evolutions	12-04-2024
Sec4.55 - P8	NW Elevations, Section A1 & A2	Design Evolutions	12-04-2024
Sec4.55 - P9	SE Elevations, Section A3 & A4	Design Evolutions	12-04-2024
Sec4.55 - P10	Dwelling 1 Elevations NE, SE, Dwelling 1 Sections B1-B4	Design Evolutions	12-04-2024



Sec4.55 - P11	Dwelling 2 Elevations NE, SW, Dwelling 2 Sections B1-B4	Design Evolutions	12-04-2024
Sec4.55 - P12	Dwelling 1 Glazing Schedule	Design Evolutions	12-04-2024
Sec4.55 - P13	Dwelling 2 Glazing Schedule	Design Evolutions	12-04-2024
Sec4.55 - P14	9am SHADOW DIAGRAMS	Design Evolutions	12-04-2024
Sec4.55 - P15	12pm SHADOW DIAGRAMS	Design Evolutions	12-04-2024
Sec4.55 - P16	3pm SHADOW DIAGRAMS	Design Evolutions	12-04-2024
Sec4.55 - P17	PROPOSED STRATA SUBDIVISION	Design Evolutions	12-04-2024
Sec4.55 - P18	GENERAL NOTES	Design Evolutions	12-04-2024
Sec4.55 - P19	LEVEL 0 PENETRATIONS PLAN	Design Evolutions	12-04-2024
Sec4.55 - P20	LEVEL 1 PENETRATIONS PLAN	Design Evolutions	12-04-2024
D01/A to D05/A	Stormwater Drainage (as amended in red)	NB Consulting Engineers	19/12/2022

***Current Condition 8. Amendments to the plan
Fencing***

The proposed 1.8m high fencing on the Cavvanbah Street boundary for Dwelling 1 has the potential to adversely affect the character and visual appearance of the public domain and is inconsistent with Part D1.2.7 – Fences of Byron Development Control Plan 2014.

The plans submitted for approval with the construction certificate application must be amended in accordance with the following requirements:



- The proposed 1.8m high fencing and gate on the Cavvanbah Street frontage must be deleted or reduced to 1.2m in height, apart from a 6m section at north-eastern corner which can be retained at 1.8m to improve privacy. Any 1.8m high section of fencing must be setback by at least 0.5m from the Cavvanbah Street boundary to allow for landscaping in front of the fence.

Swimming Pool and tuckeroo in front setback to Cavvanbah Street

The proposed swimming pool for Dwelling 1 is located in the front setback contrary to Part D1.2.2 – Setbacks of Byron Development Control Plan 2014 and results in excessive impervious surfaces covering more than 75% of the site contrary to Part B9.5 – Landscape Principles of Byron Development Control Plan 2014.

The plans submitted for approval with the construction certificate application must be amended in accordance with the following requirements:

- The proposed swimming pool for Dwelling 1 is to be deleted from the plans and replaced with landscaped area comprising grass or other native trees and shrubs.
- The existing mature Tuckeroo tree near the proposed Dwelling 1 Swimming Pool is to be retained.

Delete Condition 8- to be deleted as the Plans have been amended to include the fence at 1.2m height and the swimming pool is to has been relocated with the existing mature Tuckeroo tree near the proposed Dwelling 1 Swimming Pool is to be retained.

Condition 9 Privacy controls – amendment to the plan required

The elevated decks on the eastern and western elevations of each dwelling house in the dual occupancy (detached) have the potential to reduce the level of privacy enjoyed by the occupants of the adjoining dwellings at 24 and 28 Cavvanbah Street.

The plans submitted for approval of the Construction Certificate must be amended to include a privacy screen on the elevated decks on the western and eastern side of each dwelling as indicated on the marked-up plans.

The screens shall be constructed from vertical slats or other similar non-transparent screenings. Where slats are used, they are to be angled to ensure the line of sight is directed away from the adjoining dwelling. Screens must be a minimum of 1.8m high above the floor level of each deck. Refer to the marked-up plans.

Such plans are to be approved as part of the Construction Certificate.

Delete Condition 9 - as the Plans have been amended to include the privacy screening be extended to 1.8m height to protect And retain the privacy enjoyed by the occupants of the adjoining dwellings at 24 and 28 Cavvanbah Street.



1.3 Planning Merits of Modification Sought.

The principal reasons in support of the Sec 4.55 Application are to change the location of the Pool, the laundry and the pool pump room in house one (1) (Northern Dwelling) and house 2 (Southern Dwelling) changes are the relocation of the ensuites and the addition of an outdoor shower *approved by Consent DA 10.2022.574.1 PAN-295775 dated 1 September 2023 on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY do not change the nature of the “Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision approved by Consent 10.2022.574.1 PAN-295775 1 September 2023, on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY and it achieves the same previously approved development for the site.*

The actual development approved, i.e. *“Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision”*, will not be altered by this modification.

As such Council can be satisfied that the development as modified is substantially the same development as covered by Consent DA 10.2022.574.1 PAN-295775 dated 1 September 2023 on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY, as required by Sec. 4.55 of the E.P.A. Act 1979.

This does not affect or alter in any way the intent of the existing and historic approvals, as the approved landuse does not change.

As such it is most unlikely the amendments sought will be prejudicial to any person who may have objected to the development application, which is the subject of the consent.

As such the modification sought to the development satisfies the test imposed by Sec. 4.55 of the E.P.A. Act 1997, as detailed in the Section 4.15(1) assessment following in this report.

1.4 The Same Development

The amended proposal is for the same development i.e. *““Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision approved by Consent 10.2022.574.1 PAN-295775 1 September 2023, on LOT: 5 SEC: 54 DP: 758207 26 Cavvanbah Street BYRON BAY”*.

The change of the change the location of the Pool, the laundry and the pool pump room in house one (1) (Northern Dwelling) and house 2 (Southern Dwelling) changes are the relocation of the ensuites and the addition of an outdoor shower approved by Consent DA 10.2022.574.1 PAN-295775 dated 1 September 2023 does not change the nature of the “Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision”. Thus the integrity of the Consent is maintained.

On this basis it is considered that not only will environmental impact be nil, but there will be no impact on the character of the local area. Therefore the amendment does not alter the nature or intent of the approval, and does not compromise the intent of the approved plans, thus the Consent can be amended without impacting upon its integrity.

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



2 SECTION 4.15(1) (E.P.A. ACT)

STATUTORY -

The Zone Objectives of the R3 Zone are:

- 1 To provide for the housing needs of the community within a medium density residential environment.
- 2 To provide a variety of housing types within a medium density residential environment.
- 3 To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The changes retain a landuse permissible with consent under the R3 landuse table, thus this requested minor amendment remains permissible with the consent of Council.

2.1 Clause 5.10 Heritage conservation Byron LEP 2014

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

The subject property is located outside the mapped “Heritage Conservation Area”, and it is located well clear of any identified post white settlement Heritage Item. Despite this three (3) Aboriginal Sites are located within 1km of the site, these are two Middens in the dunes to the north, and a third site over 800m to the west. None of these will be impacted by the proposed development.

(1) Objectives

- (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.

(2) Requirement for consent

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:



- (i) on which a heritage item is located or that is within a heritage conservation area,
or
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
 - (i) on which a heritage item is located or that is within a heritage conservation area,
or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) Consent not required if:

(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:

(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and

(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

(b) the development is in a cemetery or burial ground and the proposed development:

(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and

(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment The consent authority may, before granting consent to development:

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

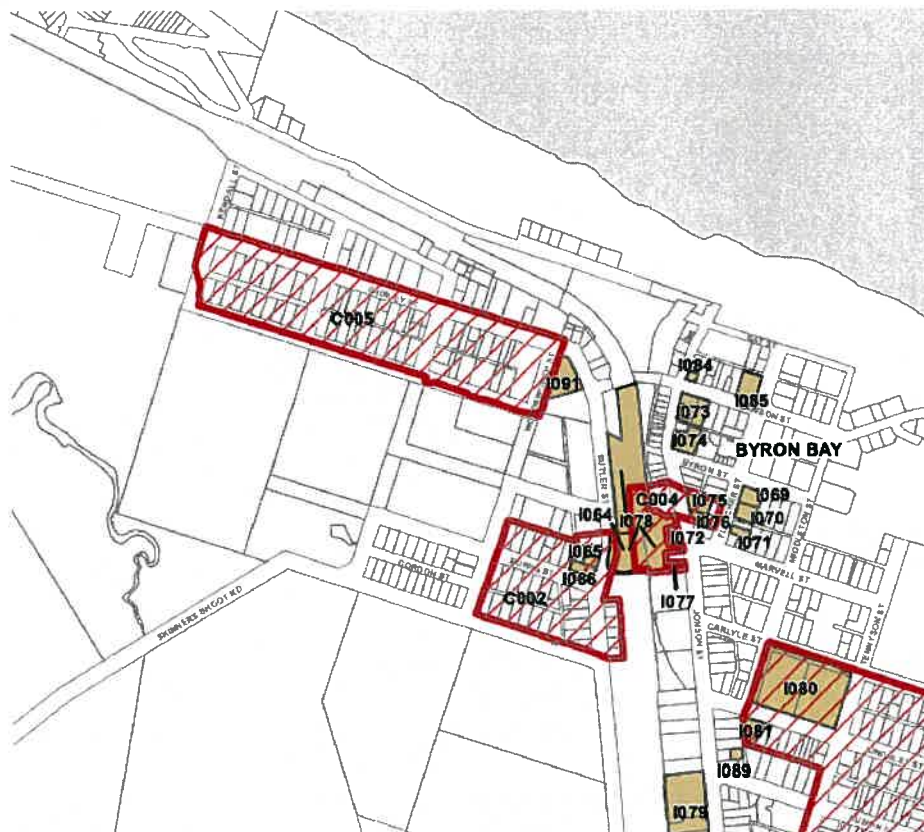
(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.



Comment

The proposed Dual Occupancy Dwellings will not detract from the features of the Heritage Character Area to the south, on either side of Shirley Street, as the architectural style proposed mirrors that of recently approved dwellings to the south east and south west, which front the Shirley Street Heritage Mapped area to the south.

As such no post invasion Heritage items or features are impacted.



2.31 Archaeological Deposits

Is the development sited on any known, or potentially significant archaeological deposits? If so, have alternative sites been considered? Why were they rejected?

The development area is wholly a developed and previously cleared site. The continual residential use of the site for many years has left the site significantly altered, and the evidence of Aboriginal Place or Relic confirmed as four(4) registered aboriginal sites within 1km of the property.

The Byron Shire Area has been the subject of a number of Aboriginal Archaeological Surveys, and no sites have been found so proximate to this allotment that they could be impacted by this site contained development proposal.



This is particularly so, as detailed above, with the site having been used for residential purposes since the early settlement of the district.

If anything did exist on this site, it would have been lost following these years of occupation and residential usage.

The conclusion is that the proposed development of this site is not likely to interfere with a site of archaeological significance.

The following AHIMS Search found three records of Aboriginal Sites within 1km of the site.

Four (4) Aboriginal Sites are located within 1km of the site, as nominated in the AHIMS search results. None of these will be impacted by the proposed development.

These physical characteristics indicate the potential for Aboriginal cultural heritage values.

The Aboriginal Heritage Information Management System was contacted for specific comment on the proposal, and the response indicates four (4) recorded know Aboriginal Heritage sites within 1km of the site.

Despite this, all development is restricted to existing developed and cleared areas, which are the site of historic urban usage of this small property.

Local residents in the area have stated that no aboriginal objects have ever been sighted in the disturbed residential lands about this site, to which the development is restricted. No middens exist on site, no caves exist on site, or water holes which are possible sites where aboriginal people may have visited pre white invasion, however these areas are not to be changed or modified or impacted.

In any case it is proposed to carry out all works on site following the exercise of caution and to proceed with care, and with awareness of the legislative requirements of the NPW Act 1974 relating to 'harm' of an Aboriginal object.

The site is a Significantly Altered Environment, and for over 100 years the land has always only been used for residential purposes. On this basis it is unlikely to retain previous aboriginal usage characteristics, other than the likely use of the sand ridge north of the development site and the dunes would have provided a flood free pathway through the area.

No disturbance of the registered sites is proposed, and as such the RISK of DISTURBANCE is LOW.

On this basis there is no requirement for an Aboriginal cultural heritage assessment. However, the property owners are advised to exercise due diligence as the requirements under the NPW Act to avoid "harm" continue to apply.



Chris Loneragan – Town Planner – Environmental Assessment : Project Design :
SUMARAH RAMSAY- Urban Planner 20

It is noted that any discovery of objects or human remains requires immediate stop work procedures.



AHIMS Web Services (AWS) Search Result

Your Ref/PO Number : s4.55 26 Cavvanbah St Byr

Client Service ID : 890432

Sumarah Ramsay

Date: 08 May 2024

Po Box 2585

Byron Bay New South Wales 2481

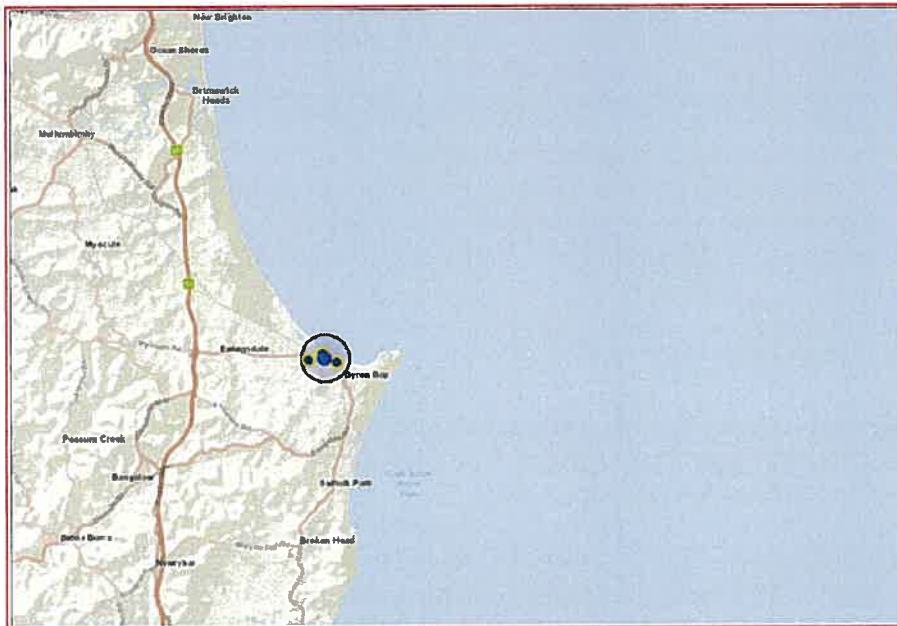
Attention: Sumarah Ramsay

Email: sumarah@byronbayplanning.com.au

Dear Sir or Madam:

AHIMS Web Service search for the following area at Address : 26 CAVVANBAH STREET BYRON BAY 2481 with a Buffer of 1000 meters, conducted by Sumarah Ramsay on 08 May 2024.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

4	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *



2.4 Byron LEP - CLAUSE 4.3 Height of Buildings

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

- (a) building not exceed spec. max. height from existing ground level to finished roof or parapet,
- (b) height of buildings complements streetscape and character of the local area,
- (c) minimise visual impact, disruption of views, loss of privacy & loss of solar access to existing development.

(2) height of building not to exceed max. height shown for the land on Height of Buildings Map.

Maximum Height Permitted 9m.

Max Height proposed 7.6m.

2.5 Byron LEP - CLAUSE 4.4 Floor Space Ratio

Clause 4.4 of Byron Shire 2014 sets a ratio of 0.55:1 between Gross Floor Area and Site Area.

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

- (a) to ensure that new buildings are appropriate in relation to the character, amenity and environment of the locality,
- (b) to enable a diversity of housing types by encouraging low scale medium density housing in suitable locations,
- (c) provide floor space in the business and industrial zones adequate for the foreseeable future,
- (d) to regulate density of development and generation of vehicular and pedestrian traffic,
- (e) to set out maximum floor space ratios for dual occupancy in certain areas.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), the maximum floor space ratio for dual occupancies on land in Zone R2 Low Density Residential is 0.5:1.

The proposed Northern Dwelling 1 is to have a Floor Area of 232.94m².

The proposed Southern Dwelling 2 is to have a Floor Area of 286.24m².

Total Calculable Floor Area of 519.18 on this 803.2m² site achieves a Floor Space Ratio of 0.60 : 1.

This floor area does not exceed the 1.6 : 1 floor space ratio for the site under LEP 2014, within this R3 Medium Density Zoned site. Therefore complaint.

2.6 Byron LEP Clause 5.21 Flood planning

(1) 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.

(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavanbah St Byron Bay



- (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—
- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,
 - (b) the intended design and scale of buildings resulting from the development,
 - (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
 - (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.
- (4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.
- (5) In this clause—

Considering Flooding in Land Use Planning Guideline means the *Considering Flooding in Land Use Planning Guideline* published on the Department's website on 14 July 2021.

flood planning area has the same meaning as it has in the Floodplain Development Manual.

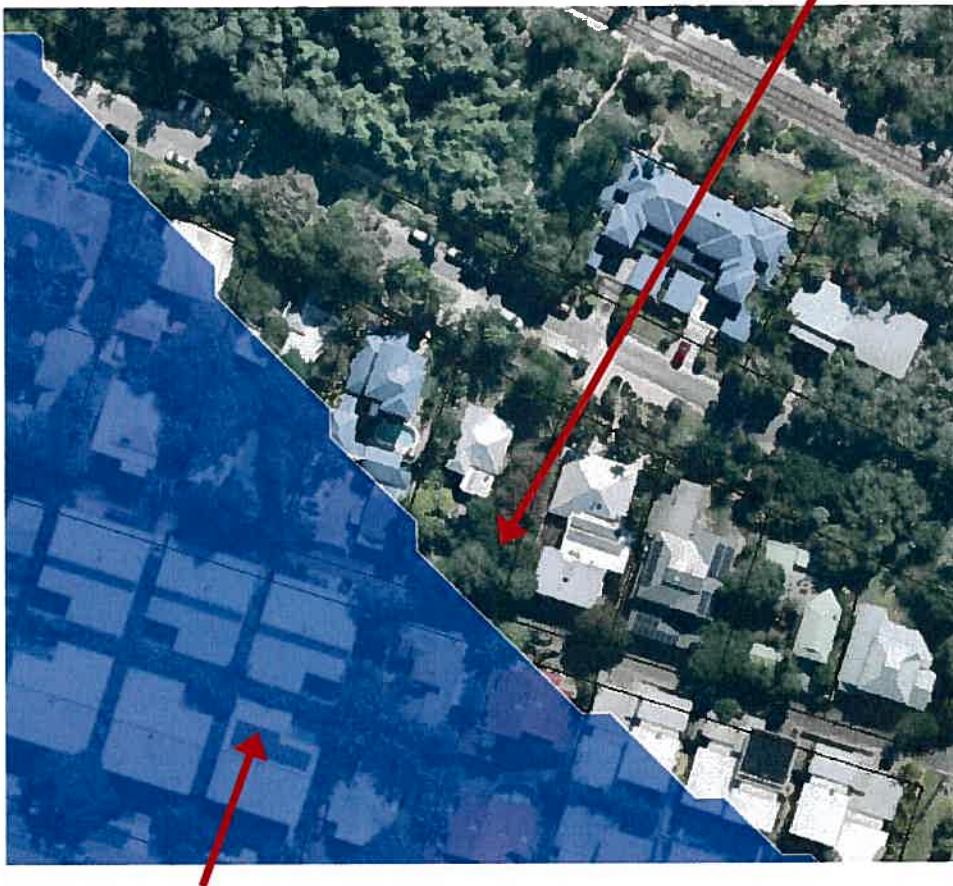
Floodplain Development Manual means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

2050 Flood Planning Level for the area is 2.82m AHD.

The minimum compliant floor levels proposed are :-

Northern Dwelling 1 – 3.1m AHD; Southern Dwelling 2 – 3.1m AHD.

No 26



Flood Map BSC Mapping System



2.7 DCP 2074 Chapter C2 - Areas Affected by Flood

Like most creek systems in north eastern N.S.W., the Cumbebin Swamp, within the catchment of which this development is proposed, experiences some degree of flooding during major storm events. These major storm events most frequently occur between January and April each year, and are caused either by Tropical Cyclones, (which have been known to cross the coast as far south as Coffs Harbour), or by intense East Coast Low Pressure Systems.

Each type of atmospheric event has the propensity to bring heavy rains to the area, and considerably increase sea levels, thus further increasing the risk of flooding.

"Belongil Creek Flood Study", was designed to ascertain the extent and severity of flooding within the valley floor of this drainage system, particularly during the projected 1 in 100 year flood event, referred to as the 1% Flood Level. "Belongil Creek Flood Study" Public Works Dept. instigated the Feb. 1986 "Belongil Creek Flood Study", which considered a matrix of factors, and on the basis of these, developed a number of scenario options. This study concluded that the design flood peak for the area within which the development is proposed, during the 1 in 100 year event, is 2.32 metres A.H.D.

On this basis a 2050 Flood Planning Level for the area is 2.82m AHD. The minimum compliant floor levels proposed are Northern Dwelling 1 – 3.1m AHD; Southern Dwelling 2 – 3.1m AHD. 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.

Non Restriction of Flood Flow

The proposal to construct a Detached Dual Occupancy and its Strata Subdivision, 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 behind the mouth of the Belongil Creek and ponding over the valley floor, with no dangerous flow characteristics, and all works occur generally within the footprint of the existing Council approved structure.

No site works are proposed that will alter the existing drainage characteristics of the site, and the proposed redevelopment of this site will not alter flow characteristics.

This will thus prevent degradation of the wetlands to the south and west. Local flooding is restricted to water ponding behind the mouth of the Belongil Creek, where water quickly gets away at change of tide, as well as directly into the sandy soil.

No Filling of Site

There will be no filling of the site, only displacement around the foundations of the buildings proposed. In any case, water displacement will only occur during The 1% flood, with minimal water being displaced during the normal annual flood events.

It is thus considered that the development will not increase the level of flooding on other land in the vicinity, particularly as the dwelling additions proposed are designed to meet current Council Floor Level requirements. The proposed development therefore satisfies this L.E.P. objective.

Flood Proofing of Building

Due to the minor and ponding nature of flooding that affects the site, and the fact that the elevated buildings will not displace flood waters, then it is considered that the proposed development satisfies this L.E.P. objective.

The requirement of this objective, that the building be flood proofed', is satisfied by the habitable floor levels of - Northern Dwelling 1 – 3.1m AHD; Southern Dwelling 2 – 3.1m AHD..

Parking spaces will have a level of approx. 4.7m AHD in the north, and 2.78m AHD in the south, being above the 2.32m 1% Flood Level. The Cavvanbah Lane would still permit access to Dryden St. and then to Shirley St. to the south.



Flood Evacuation Plan

The following flood access and evacuation plan is to be fixed to the Kitchen door of the dwellings.

FLOOD ACCESS & EVACUATION PLAN

Dated 68/05/2024 For Property Lot 5 Sec 54 DP 758207 No. 26 Cavvanbah St. Byron Bay.

Flood Characteristics. During major 1 in 100 year flooding, water approximately 0.1m deep may enter the rear property and cover the ground. The 1 in 100 year flood will reach a level of 2.6m AHD. All vehicles should be moved in case of such an event to higher ground at the northern end of Dryden St. from their rear lane location in the south of the site.

All habitable floors are to be located at 3.1m ADH, and as such will not be affected by flooding. Approx 100mm of flood water will sit over the S.W. corner of the site adjacent to the rear lane during a 1% event.

Flood Warnings. Local Radio Stations will broadcast warnings, so always keep a battery operated radio in the house. Flood warnings will indicate expected flood heights in the Belongil Creek System at Byron Bay. By Survey the levels on the site vary from 2.43m AHD in the south west, to 5.3m in the north east. The 1% flood is 2.6 m. A.H.D.

Preparations. If a flood event is forecast then the following items need to be prepared. Wet weather clothing, Torch, Radio (battery operated), Spare Batteries, Prescription Medicines, Basic Food Stuffs.

Evacuation. If a flood event is forecast:-

- a) Monitor flood advise and take note of estimated flood peaks and expected time.
- b) Prepare for evacuation and ensure all preparations have been made.
- c) If evacuation is required, this is achieved by travelling east along rear Lane, and then south along Dryden St. to Shirley St. Timely evacuation avoids emergency personnel taking risks if evacuation is delayed by you.
- d) If you evacuate other than to an emergency shelter, advise authorities so that you can be accounted for.

Contacts. S.E.S. - 132500 (Byron Shire 66843444)

Byron Bay Police - 66856300

Emergency Shelter.

Country Energy. - 132080

Telstra. - 132200

Local Radio. - A.B.C. F.M. 94.5

NOTES

It is natural to feel apprehensive if this is your first flood, however, SES HQ should not be phoned as this congests the control centre. Rely on radio advises in the first instance.

CONCLUSION - Flooding is not a significant constraint and the existing dwelling has not been inundated, and the new design meets Councils new floor height requirements.

Implementation of the Floor Evacuation Plan will ensure that occupant safety is optimised. The development is to achieve minimum floor levels of 3.1m AHD, being 800mm above the projected 2.3m 1% level. As such it is considered that the design criteria meets DCP 2014 requirements.

CONCLUSION

Flooding is not a significant constraint and the existing dwelling has not been inundated, and the new design meets Councils new floor height requirements.

implementation of the Floor Evacuation Plan will ensure that occupant safety is optimized.

The two Dwellings will sit 800mm above the projected 2.3m 1% level.

As such it is considered that the design criteria meets DCP 2014 requirements.

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



2.8 Byron LEP Clause 6.1 Acid sulfate soils

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the [Acid Sulfate Soils Map](#) as being of the class specified for those works.



Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered. Works more than 1 metre below the natural ground surface.
3	Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface. Works more than 2 metres below the natural ground surface.
4	Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface. Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.
5	



- (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.
- (4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—
- (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and
 - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—
- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
 - (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
 - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if—
- (a) the works involve the disturbance of less than 1 tonne of soil, and
 - (b) the works are not likely to lower the watertable.
- (7) Despite subclause (2), development consent is not required under this clause for the carrying out of works for the purpose of agriculture if—
- (a) a production area entitlement is in force in respect of the land when the works are carried out, and
 - (b) the works are carried out in accordance with a drainage management plan, and
 - (c) the works are not carried out in respect of a major drain identified on the [Acid Sulfate Soils Map](#), and
 - (d) the works are not carried out on land identified as “coastal wetlands” on the *Coastal Wetlands and Littoral Rainforests Area Map*, within the meaning of [State Environmental Planning Policy \(Resilience and Hazards\) 2021](#), Chapter 2.

The subject property is Class 5 Acid Soils. On this basis DCP 2014 requires “Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land”.

In this instance the site has an AHD Level of between 5.12m AHD and 2.43m AHD. Excavations proposed will not extend into the water table, and as such the proposal satisfies this requirement.



2.9 Development Control Plan 2014 Part "D" Dwellings General

PRESCRIPTIVE MEASURES	PROPOSALS COMPLIANCE WITH D.C.P.
Part D.1.2.1:- Building Ht. Plane Objective - reduce overshadowing, maximise privacy, view sharing, optimise access to winter sun. Performance Criteria - progressive setback from side boundaries. Requirement - All walls & roof are to be contained within is a line drawn 1.8 meters vertically above the southern and western side boundaries and then extended, sloping in over the site, at a 45 degree angle. This may exclude pergolas, verandahs, lattice walls & the like.	The elevations show that the proposed new northern and southern dwellings comply with the building height plane, although slightly encroaching the building height plane for the open-sided north western carport, and this cannot detract from solar access to any adjoining dwelling or yard activity area. This is also the same for minor parapet point encroachments of approx 100mm. On this basis the proposal will not detract from solar access to adjoining properties, and meets the objectives of this Clause D1.2.1 of DCP 2014.
D1.2.2 Setbacks from Boundaries Objectives 1. varied and interesting streets that harmonise with existing & planned street scapes and development in the locality. 2. good orientation, spacing, living environments - sunlight, shade, wind, weather, amenity, proximity to neighbours. 3. achieve useable and liveable private open space and courtyards. 4. provide flexibility in siting and design of dwelling houses in residential areas. Performance Criteria 1. flexible provided achieve Objectives and Performance Criteria. 2. Street façade of building, open space between it and street - contribute to the attractiveness of the streetscape. Integrate with existing pattern of setbacks, variety in the streetscape. 3. Private open space and common landscaped areas must be useable as part of living environment. Spaces between buildings and the street lack privacy. 4. setback from a street determined on its merits, having regard to: a) the Objectives; b) any specific location DCP; c) existing buildings in the locality; d) the size and shape of the allotment; e) vehicular safety and visibility, particularly on corner sites; f) orientation of allotment re: sun & winds; g) location of private open space, courtyard or landscaped areas; h) the facade building facing the street and landscape	Varied and interesting streetscape is maintained which harmonise with future and existing dwellings. The Northern dwelling achieves a 5.5m setback to Cavvanbah Street, and the Southern dwelling achieves a 3.1m setback to Cavvanbah Lane. This also meets required street and laneway Parking Setback. Western boundary setback 1.2m, eastern boundary setback 1.24m. Street facade is in keeping with the neighbourhood. It is varied and visually interesting. Open space between it and the street contribute to the attractiveness of the streetscape. Setback integrates it with existing patterns and assists to maintain variety of streetscape. Private Open Spaces are landscaped to provide useable living environment. Privacy is extensive through landscaping.



treatment visible from street; i) location and treatment of car parking. 5. Notwithstanding above criteria, buildings must comply with the building height plane as detailed in Section D1.2.1. 6. Dwelling house encroach into the side setback and building height plane where it enhances the design, complements street scape and not detract privacy, solar access, microclimate, traffic safety or amenity. 7. variations to have regard to: a) the Objectives; b) compliance with the Performance Criteria; c) visual impact of variation on the street; d) impact on amenity, privacy, views and access of surrounding properties; e) the existing and future status of the road; f) traffic impacts & sight lines AS2890; and g) compliance with the BCA. Prescriptive Measures 1. Minimum Street Frontage Setbacks a) Local Roads - 4.5 metres. b) Classified roads- 9 metres. Variation to 6.5 metres for single storey dwellings or single storey elements of two storey dwellings. c) Garages and carports 5.5m from the front boundary except from classified roads. d) Corner lots reduced to 3m for one boundary. e) Rear Lane - 3 metres, unless primary frontage (eg. Shirley Lne) then 4.5 metres applies including to garages and carports. Consideration to setback variations in Heritage Conservation Areas where compliance would result in conflict with Objectives in Ch C1 Non-Indigenous Heritage. No development in building setbacks other than garbage storage, mail boxes, landscaping and driveways. Car parking not within setbacks, except the setback for garages and carports where one (1) uncovered car park may be provided. Stacked parking or visitor parking not in setbacks. 2. Minimum Side and Rear Boundary Setbacks a) 900mm, & dwellings to comply to building height plane. b) In urban areas, Council may consent to the construction of one or more building walls set back less than 900mm from a side or rear boundary, where: i) wall or walls contain no openings; and ii) would improve siting or orientation of the dwelling/s or the provision of private open space; and would not significantly: increase overshadowing of adjoining properties; or reduce the level of privacy enjoyed by adjoining properties. c) zero lot line level. only where lots part of integrated design, and where buildings constructed prior to Sub Cert. 3. Minimum Setbacks for Residential Flat Buildings and Multi-Dwelling Housing a) Side and rear setback – 1.5 metres for single storey; otherwise governed by the building height plane. b) Between buildings on a site – 3 metres.	Earthy tones are utilised to blend the building into the surrounding landscape minimising visual intrusion. No appreciable visual impact or variation on the streetscape. No impact on amenity, privacy, views or access of surrounding properties. Existing and future status of the road is maintained. Traffic impacts and sight line to be compliant with AS2890. Compliance with the BCA. No conflict with Heritage Conservation or Non-Indigenous Heritage evident. 3. Not Applicable. 4. The two (2) pools are setback more than 1.28m from side boundary. This mirrors the location and style of the Council approved pool at 58 Shirley Street. On this basis the pools, which are hidden from view by a large 1.8m. wall, will similarly not detract from the visual integrity of the Street-Scape, and mirrors proximate Council approvals, and as such it cannot be considered as a design feature that will
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4. Swimming Pools and Spas a) outer edge of pool concourse or coping set back Min (1) metre from side or rear boundaries, water line Min 1.5 m from bndry. b) Pools should not be located within the street frontage setback, except on sites where private open space can be accommodated only in this location or other site attributes support this outcome. c) Pool pumps shall be located as far back from a side or rear boundary as practical and if closer than 3 m from either it shall be acoustically shielded.	prejudice the proper future planning of the area.
D1.2.3 Screening Underfloor Space Objectives 1. improve external appearance of elevated buildings. 2. provide compatibility in appearance and character between buildings. Performance Criteria 1. underfloor space of elevated buildings be provided with infill panelling, advanced landscaping or other forms of visual screening. 2. In flood liable land screening 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 req of BCA and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas. Prescriptive Measures - Nil.	Slab On Ground and on Piers Proposed, with subfloor area screened.
D1.2.4 Character & Visual Impact Objectives 1. retain and enhance unique character of Shire, distinctive landscapes, ecology, towns, villages, rural and natural areas. 2. ensure new development respects and complements important aspects of natural and built environment re existing character. Performance Criteria 1. Site, building and landscaping design must address the climate; 2. The street face of building, and front open space contribute to attractiveness of streetscape by - design, materials and landscaping; 3. minimise loss of privacy; 4. integration with existing built & natural environment, & variety in streetscapes; 5. Long, straight walls to be broken up visually by materials / changes in wall plane; 6. verandahs, balconies, pergolas encouraged for visual, climatic and energy efficiency reasons; 7. Well-designed overhanging eaves to protect against heavy rainfall and summer sun, while allowing winter sun penetration;	1&2. The new development respects and compliments existing character of the area. The buildings have a low pitched roof design using Colorbond "Surfmist", to help blend it into the site, with walls comprising broken elevations clad in an eclectic mix of materials (mostly Vertical Sycon cladding "Light Grey"). These earth tone colours will blend the buildings into this site. 3. Minimises loss of privacy achieved through adequate landscaping and open space areas provided. 4& 5. Integration with existing built & natural environment, & variety in streetscapes met through design, materials used. 6. Verandahs and Patio for



8. building materials compatible with environment. metal roofs not highly reflective. White or light-coloured roofing only where not visually intrusive. Details submitted with development application. Prescriptive Measures - Nil.	visual, climatic and energy efficiency reasons. 7. Well-designed overhanging eaves and awnings to protect against heavy rainfall and summer sun, while allowing winter sun penetration. 8. Roof in light colour and elevation lines and adequate fenestration help blend the dwelling into the residential character of the local area and is not visually intrusive.
D1.2.5 Fences - Objectives 1. erect fences for privacy, noise, security. 2. ensure 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. ensure fences do not dominate built element in the streetscape. 5. exclude unwanted light from vehicles. 6. ensure that design and placement not adversely impact traffic or pedestrian safety. 7. To ensure provision for access by safety and emergency vehicles and personnel. Performance Criteria 1. Fences must not: 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 facilitate safe entry and exit for vehicles to public roads. not create unsafe sight distance for neighbouring properties. 3. corner allotments. allow for enclosure of rear yards without impact on street scene, safe sight distance and traffic/ped safety. Prescriptive Measures Height of Fences a) The height of fences should not exceed: Front Fence 1.2m Side Fence 1.2m to building line then 1.8m. Rear Fence 1.8m except where primary frontage then 1.2m may apply. <u>Front fence</u>- any fence forward of building line, whether erected on bndry or not. b) Front fences and side fences within the building line setback higher than 1.2 metres but not higher than 1.8 metres may be permitted for properties:	1. New Fencing Proposed mirrors the existing Cavvanbah Street at a max of 1.2m and 1.8m Cavvanbah Lane fencing. 2-4. Fencing does not dominate or reduce opportunities for casual social interaction. 5. N.A. 6. No adverse impact to traffic or pedestrian safety. 7. Provision for access by safety and emergency vehicles and personnel is achieved. 1. Not Applicable. 2. Access Driveway opening facilitates safe entry and exit for vehicles to public roads. Does not create unsafe sight distance for neighbouring properties or the local community. 3. Not Applicable- Not a corner allotment. a. New Fencing Proposed. 1.2m Front Fence with landscape recess. 1.2-1.8m Existing Side Fence. 1.8m Existing Rear Fence.



i) adjoining commercial. ii) traffic noise or lights impact on amenity. iii) safety or noise mitigation, or to enclose primary openspace. c) Front fence higher than 1.2 m must be: i) setback min 50cm inside front bndry with area in front of fence to be landscaped; or ii) articulate recessed sections min 0.9x 0.9m at max interval of 5 m for planting. 2. Corner Allotments Fencing of the secondary frontage will be allowed up to 1.8m high on the boundary, up to either of the following alignment setbacks from the primary street: a) existing building line setback to street; or b) if existing dwelling is forward of building line, in line with the existing dwelling. Fencing forward of this alignment must comply with the front fence requirements. 3. Sight Lines at Intersections fence at intersection of two public roads, satisfactory sight distance must be provided. Min corner splay 4mx4m be provided fence. Landscaping in splay not impede visibility.	2. Not Applicable- Not a corner allotment. 3. Not Applicable- Not located at an intersection.
D1.2.6 Balconies - Objectives ensure visual character is consistent with and not dominate the design. Performance Criteria Balconies not dominate visual character of buildings, must be consistent in character with building in materials, colours, dimensions, bulk, scale and proportion. Prescriptive measures There are no Prescriptive Measures.	Verandahs ensure visual character is consistent with, and does not dominate, the design or the site.
D1.3.1 On-Site Car Parking - Objectives 1. To provide adequate and visually compatible accommodation for vehicles. Performance Criteria 1. Car parking on the site convenient for access for residents of the dwelling; safe and accessible in terms of visibility, turning and manoeuvring capabilities; and visually compatible with the site and its locality. 2. Car parking structures, including garages and carports, which are visible from the street must be compatible with the dwelling in terms of design and materials, and may form part of the dwelling structure. Prescriptive Measures 1. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding car parking and vehicle access. 2. Council may consent to the location of a carport such that it does not comply with the building height plane in relation to a boundary, having regard to the matters contained in Section D1.2.1 and to the adequacy and safety of vehicular access.	The northern dwelling is to achieve access to Cavvanbah Street via a NW driveway servicing two cars. The southern dwelling is to achieve access to Cavvanbah Lane via a SE driveway servicing two cars. Here sight distances are more than adequate to optimise traffic safety.
D1.3.2 Landscaping Objectives	1. The design and site planning



1. enhance the visual quality of residential areas and to improve the residential amenity of the Shire. 2. limit stormwater runoff from residential areas. Performance Criteria - enhance visual quality and improve the residential amenity of the Shire, Council encourages the landscaping of dwelling house allotments in accordance with the principles contained in Chapter B9 Landscaping. Prescriptive Measures 1. where dwelling erected closer than 4.5m to the front boundary, adequate landscaping be provided to street frontage of the lot prior to occupation of the dwelling. Landscaping must be consistent with the principles contained in Chapter B9 Landscaping. 2. 25% of the site must consist of deep soil areas. Not include areas used for on-site sewage effluent.	utilised existing sitting and function. Further to this, compensatory plantings are proposed for the nine (9) trees to be removed. 2. 30% Deep Soil area achieved through existing landscaping consistent with the principles contained in Chapter B9 Landscaping. With 257.91m² available to the site to comply.
D1.3.3 Expanded House - Objectives 1. facilitate dwelling house comprising separate building components. Performance Criteria There are no Performance Criteria. Prescriptive Measures 1. No expanded house habitable outbuilding is to be located more than 20m from the wall of the main building, measured from wall to wall at the closest point; 2. The main building must contain an identifiable living area including the kitchen; 3. A maximum of three outbuildings may be connected to the main building by paths with an all-weather surface; 4. No separate driveway, car parking area, garage or carport structure is to be provided to service any outbuilding; 5. One outbuilding max 45m² exc decks and the like; others max 30m² floor area exc decks and the like; 6. No outbuilding to contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food; 7. Each outbuilding may incorporate a maximum of two bedrooms (including rooms with an ensuite or bathroom); 8. A maximum of only one laundry is permitted per dwelling.	1. Not Applicable.

2.10 Development Control Plan 2014 Part "D 1.5" Dual Occupancy

D1.5 Dual Occupancy and Semi-Detached Dwellings

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).



The design achieves two (2) detached dwellings which attain these guiding objectives and avoids the necessity for major site works or significant changes to the overall infill development character of the immediate area.

Development Control Plan 2014 Part "D" Dual Occupancy

Prescriptive Requirements	Proposals Compliance with DCP
D1.5.1 On-Site Car Parking Objective - provide adequate & visually compatible on-site parking of vehicles for residents and visitors. Performance Criteria 1. On corner lots there may be an advantage in providing access to each dwelling from a different street frontage, paying particular attention to the need to make the best use of the site, to promote traffic safety and to orient buildings and landscaped areas to maximise climatic advantages. 2. Or, where feasible and where pedestrian and traffic safety will be improved, vehicular access to dwellings should comprise a shared driveway. 3. Driveways located & designed to minimise danger to pedestrians and cyclists using the street as a result of vehicles reversing into or out of the driveway. 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.	The northern dwelling is to achieve access to Cavvanbah Street via a NW driveway servicing two (2) cars. The southern dwelling is to achieve access to Cavvanbah Lane via a SE driveway servicing two (2) cars. Here sight distances are more than adequate to optimise traffic safety at low speed to facilitate
D1.5.2 Character Objectives - ensure dual occupancy 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. Prescriptive Measures - Nil.	The buildings have a low pitched roof design using Colorbond "Surfmist", to help blend it into the site, with walls comprising broken elevations clad in an eclectic mix of materials (mostly Vertical Sycon cladding "Light Grey"). These earth tone colours will blend the buildings into this site. The design, with its broken roof and elevation lines, provides a visually soft structure which minimise the bulk and scale of the development. Large Open Space areas are available to each dwelling.
D1.5.3 Adjoining and Adjacent Development Objectives - ensure consistent with the character and amenity of existing development in the locality. Performance Criteria 1. Development compatible with the bulk, scale,	The design, with its broken roof and elevation lines, provides a visually soft structure which minimise the bulk and scale of the development.



height & character of adjoining & adjacent devel. The site characteristics, including slope and aspect, must be taken into consideration in assessing the appropriate height and number of storeys. 2. Adequate provision for solar access and privacy of the proposed dwelling(s) and any adjacent dwelling. Prescriptive Measures Council will only consider dual occupancy and semi-detached dwelling development in urban areas where, in its opinion, it has been demonstrated that the following objectives have been met: 1. Adequate provision for reasonable protection of existing views from neighbouring houses; 2. Adequate provision for privacy of the proposed dwelling(s) and any adjacent dwelling(s); 3. Adequate provision for access to natural light and solar access for the proposed dwelling(s) and any adjacent dwelling(s); 4. Maintain character & neighbourhood amenity of the adjoining residential area.	The detached Dual Occupancy buildings sit below Councils 9m maximum height requirements (Max 7.6m), and generally accords with building height plane objectives set within DCP 2014, however small breaches in the NW at the proposed carport, and minor parapet breaches, will not detract from the residential amenity of the area, or solar access to the adjoining property. The proposed development is well set back all side boundaries. The stepped form of the structures blends with local architecture, and a Low Density of development results.
D1.5.4 Private Open Space Objectives - ensure adequate accessible / useable open space to meet recreational, gardening needs. Performance Criteria 1. Private open space of dimensions to suit occupants and guests, accommodate outdoor recreation needs, provide space for service functions such as clothes drying and domestic storage. 2. Part must be capable of enabling an extension of the function of the dwelling for relaxation, dining, entertainment, recreation and children's play, and be directly accessible from the dwelling. Provision must be made for space for private gardening such as vegetable gardens. 3. private open space take account of outlook, natural features & neighbouring buildings or open space. Orientation for max year round use re sunlight. 4. Private recreational facilities must not adversely affect the amenity of adjacent properties. Prescriptive Measures 1. Each dwelling must have an area of private open space at ground level not located in the front setback, having a minimum area of 30m² and a minimum length and width each of 4m, excluding any area used for vehicle circulation or parking. 2. private open space must not include any areas used for the management of on-site sewage effluent.	Adequate landscaping areas and open space areas exist for use by both houses. Private open space at ground level not located in the front setback, having a minimum area of 30m² and a minimum length and width each of 4m. Total Deep Soil Area is 260m² on this 803.2m² Allotment. Each dwelling has outdoor deck areas and adjacent private yard areas at ground level as an extension of the indoor living spaces for outdoor recreation and year round access.
D1.5.5 Landscaping Objectives - provide attractive landscapes reinforce function of street and enhance amenity of dwellings. Performance criteria Ref Ch B9 Landscaping. Prescriptive Measures - Ref Ch B9 Landscaping. D1.5.6 Sound Proofing Objectives - acceptable acoustic environment.	Adequate landscaping exists to visually soften both houses, with the nine (8) trees to be removed and two (2) relocated more than compensated for in the new landscaping proposed.



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. Prescriptive Measures - Nil.	Native plantings about the site will achieve DCP requirements, and achieve privacy between the two dwellings and adjacent properties. Total Deep Soil Area is 257.19m² on this 803.2m² Allotment. Each dwelling has outdoor deck areas and private yard areas with good solar access.
D6.4.3 Infill Sub with Rear Lane Access Objectives 1. ensure infill in a co-ordinated manner. 2. ensure vehicle and pedestrian safety and residential amenity is maintained. Performance Criteria - None Prescriptive Measures re-subdivision of existing residential lots which rely on or propose rear lane access, necessitate an upgrade of the rear lane. Min standards: - a) Construction of laneway to provide min 3m bitumen seal with drainage for full frontage. Council may require sealing extended to finalise laneway or to nearest cross street. b) Driveways installed, appropriate sized concrete pipe and headwalls. c) Fencing and access to comply with B4.2.4. d) Legal pedestrian access provided back to the main street frontage by Right of footway, common property or battleaxe subdivision. Also can be used for the provision of services (water, sewer, power and telecommunications) and enable garbage and postal services collected from the street as opposed to the laneway. If pedestrian only, min 1.2m wide. My need to be 3m if infrastructure services included. fenced for privacy, but not restrict sight distances. e) Sub - building envelope of 12 x 15 metres. Dwelling houses and garages set back min to 3 m to laneway boundary. f) No gates or doors to open out to public road reserve including the laneway. g) Landscaping is to comply with the requirements of Chapter B9 Landscaping. h) more than two lots, or two or more dwellings (not secondary dwelling), may require higher standard of laneway upgrade - width of seal and drainage infrastructure.	A 1.2m wide footway is required, and is proposed between the southern dwelling and Cavvanbah Street via the 1.2m wide pedestrian corridor proposed along the western boundary of the property. Complies with the objective of this DCP provision.



2.11 COASTAL EROSION – DCP 2014

The site is located within Coastal Erosion Precincts 2 and 3.

On this basis the site is not under any immediate threat, and the owners accept that if the erosion escarpment, currently located 200m to the north of the site, and separated from the site by the North Coast Rail Line and developed urban lands and a road (Cavvanbah Street), comes within 20m of their property, then they may be required to demolish the dwellings on site.



DCP 2010 terms

J2.2 Element – Precinct 2 - Between The Immediate Impact Line (D) And The 50 Year Erosion Line

Element Objective

To ensure the impact of coastal processes on potential development is minimised by ensuring any development is readily relocated as the erosion escarpment nears the development.

Performance Criteria

Development in Precinct 2 must be designed to be relocate or demolished, or to cease operation, should the erosion escarpment come within 50 metres.



Prescriptive measures

Development within this precinct will be granted on the understanding that any consent granted will be subject to the proviso that must the erosion escarpment come within 50 metres of any building then the development consent will cease.

If the development consent does cease then the owner of the land will be responsible for the removal of any or all buildings from the site(D), or, where possible, to a location on the site(D) further than 50 metres from the erosion escarpment. Prior to lodging an application with Council, the developer of the land must determine whether buildings are to be relocatable or demolished, should the consent cease.

Notwithstanding the above, all Class 1 residential buildings (dwelling-houses(D)) must be relocatable. Extensions to existing dwellings(D) may also be required to be demountable, taking into consideration the additional floor space proposed and the likely effect of the extension on the ability of the building to be relocated in an emergency.

The dwelling-house(D) must be designed and constructed so that it can be easily removed from the site(D) by road vehicle. The plans of the building must include an adequate description of the removal procedures.

The dwelling(D) must be located so as to maximise as far as practicable the distance from the nearest point of the building to the seaward boundary of the site(D).

Conditions of consent likely to apply to dwellings(D) on land within Precinct 2 are as follows:

- a) (Prior to issue of a Construction Certificate) A certificate is to be provided from a practising structural engineer as to the adequacy of this building to be easily dismantled and readily removed from the site(D) by road vehicle.
- b) (Prior to issue of a Construction Certificate) A restriction as to user must be placed on the title pursuant to the provisions of section 88E of the Conveyancing Act 1919, stating:
"The subject land and any improvements erected thereon must not be used for the purpose of (land use) in the event that the erosion escarpment, as defined by the Works and Services Director of the Council of the Shire of Byron from time to time, comes to within 50 metres of any buildings or any part thereof at any time erected on the said land."
- c) Subsequent to any approval being given for a relocatable dwelling(D), no works must be carried out on the property which might hinder the ready relocation of the building. Such works might include the construction of walls, fences, screens, enclosures, brick veneering, landscaping or the fixing of joints or structural members by welding or other means.
- d) This development consent must cease if at any time the erosion escarpment, as defined by the Works and Services Director of the Council of the Shire of Byron, comes to within 50 metres of any building associated with this development. The owner of the land must then remove that building.

Whilst detailed controls for various categories of development in Byron Shire are defined by the *Elements* specified in [Byron Development Control Plan 2010](#) (DCP 2010), as above it would be oppressive to impose a permanent Restriction as to User on the Property Owner as part of this Development Consent under Development Conditions.

Part J is a rewritten version of the Coastal Hazards components of the Council's prior DCPs extending back for many years and is written ignoring more current studies and literature. The historical coastal hazard mapping that underpins Part J is outdated, as had been illustrated by

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the Council's [1999 Coastal Hazards Definition Study](#) (WBM, 1999). The Policy of Council which it has historically chosen to adopt is more than a conservative approach to coastal development and is now out of step with NSW Government Strategy and is under active, directed review by Council.

The current scenario for coastal hazard studies in Byron Shire is outlined on Council's website.

The situation can be summarised as follows:

1. The Minister for the Environment has directed Byron Council to prepare a new Coastal Zone Management Plan (CZMP) for the Byron Bay Embayment. The finalisation date for the CZMP has been changed a number of times, and is now 31/12/2014.
2. Council in 2012 adopted [proposals by Worley Parsons](#) to redesign the existing coastal protection works at Jonson Street, Byron Bay. The adopted design is now informing the subsequent coastal hazards and management studies that will provide the basis of the new CZMP.
3. A revised version of the 1999 Coastal Hazards Study was prepared by BMT WBM [WBM, 2013](#)) and adopted by Council in 2013. [The revised Study](#) is based on the State Government's current guidelines, and advances in investigative techniques since publication of the 1999 report. It also assumes that the Worley Parsons design will be implemented for the Jonson Street protection works.
4. The Council has engaged consultants WRL to prepare [Coastal Hazards Management Study for the Byron Bay Embayment](#). Council staff are hoping that Council will agree on policies to finalise that study around August 2014.
5. Once the Coastal Hazards Management Study is completed it is expected that the Council staff will compile the draft CZMP for Council's consideration.

The New Coastal Hazard Study for Byron

The [BMT WBM \(2013\) report](#) assesses two scenarios, both of them assuming implementation of : the [adopted Worley Parsons design for the Jonson Street works](#), viz (see [BMT WBM \(2013\) summary](#), page xv):

Scenario 1: *Retention and permanent maintenance of all existing coastal erosion protection works and interim beach access stabilisation works along the Byron Bay Embayment; and*

Scenario 2: *Retention of only the Jonson Street protection works and removal of all other coastal erosion protection works and interim beach access stabilisation works along the Byron Bay Embayment.*

The Report advises (see summary page xvi) that :

'The hazard extents determined are mapped in Chapter 4 and are intended to inform management planning and any future decisions about how the coastline is managed'.

In particular, if Scenario 1, as is considered likely, is ultimately adopted, the subject property will be found to be free of all potential coastal hazards within the defined planning period.

- [For scenario 1](#) (Figure 4-42, page 103) – No coastal hazards to the year 2100 affecting the site. By scale the site is a little over 50m from the Maximum 2100 Hazard line.
- [For scenario 2](#) (Figure 4-44, page 105) – the site is:
 - not affected by the Best Estimate 2100 Hazard line but within 50m of that line; and
 - not affected by the Minimum 2100 Hazard Line and, by scale a little over 50m from that line.



..... 77 metre Setback between ocean side of State Rail Asset and Dwelling.

..... 200 metre Setback between erosion escarpment and Dwelling.

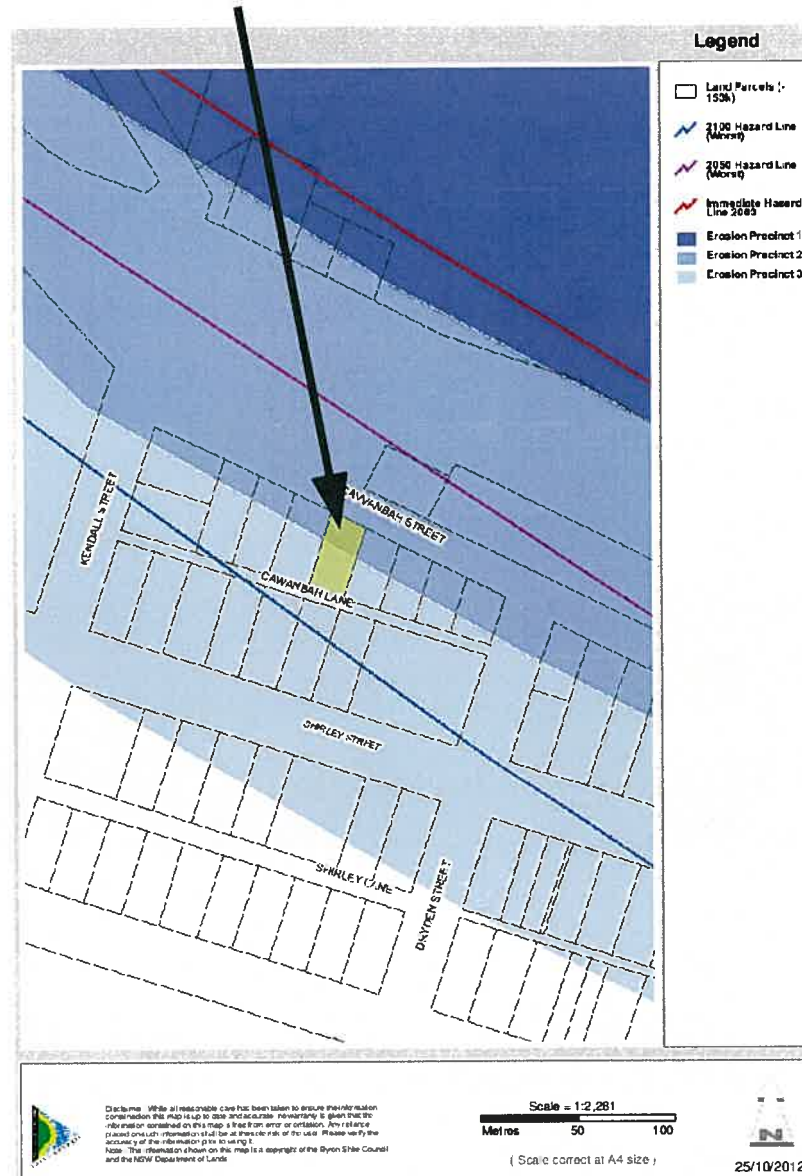


As shown on the above "Google" image, and the Precinct Hazard Map (DCP 2010) on following Page 11, the subject property and proposed dwelling buildings, are mostly all located within Precinct 3, and not Precinct 2, which historically by Council, is determined to be between the 100 year and 50 year erosion lines.

The subject property is located over 200m from the erosion escarpment to the north in this DCP, and the property under the BMTWBM 2013 Study is mapped than 50M from the Year 2100 Hazard Boundary of Coastal Erosion.



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Considering for now the relevant Objectives, Criteria and Measures of DCP 2010.

Reference is made to the earlier submissions in this Report and relied upon.

The actual terms proposed for the User restrictions within DCP 2010 are not in accordance with the DCP and are, in any case not a mandatory prescriptive measure, and can not be relevant on the DCP to Precinct 3 Buildings and Land not affected as Precinct 2.

Additionally "land", it is submitted, is used in the sense of "parcel of land" not a piece of dirt, and certainly not in the sense of a minority portion of a property hence changing the entire property

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to Precinct 2 from 3, and entitling Byron Shire Council to impose a burden over the entire parcel of land. This was never previously notified nor is such accepted as reasonable or appropriate at all. Council had determined that 80% of the subject property is Precinct 3. The current Study states the land is not affected even as Precinct 2.

It is our submission, the Prescriptive Measures of the 2010 DCP are complied with by reasonable notification to the Owner of the Subject Property by the Council in the third party notification provisions undertaken by Council by its S10.7 Certificate endorsements, which is the active and historical practice of Byron Shire Council.

Additionally the current Coastal Hazard Study can not today be ignored or dismissed. There is spatial separation of the subject site from the existing erosion escarpment of over 200 metres; and based on erosion characteristics of the current Study, the erosion escarpment will not affect the subject property as projected ever and not before the year 2100, which is more than its economic life; and additionally the current study ignores the State Government application of its own conservation - not retreat policy - which will most likely be put in place for protection works to save its State Asset, the "North Coast Rail Corridor", at over 80m from the dwelling, thus protecting the subject property in perpetuity.

As shown this scenario is most unlikely within the economic life of the building.

Despite this it has already been designed and approved to be of framed construction to facilitate the worst of Coastal Erosion outcomes.

As such the development will not exacerbate coastal hazard, and the most accurate characterisation of the proposed and existing Development Area within the site is that of an area which is not threatened by immediate Coastal Processes due to the large distance between the development and the erosion escarpment, and the previously detailed mitigating circumstances and the revised circumstances and predictive mapping as is shown by the BMTWBN2013 Study.

On this basis the proposed Timber Framed Detached Dual Occupancy totally complies with the objectives of development within the coastal impact area as both dwellings are structures which can either be demolished if a threat occur in the distant future, or they can be disassembled and their framing structures reused elsewhere.

2.12 DCP 2014 Part B.8 – Waste Management.

Waste minimisation Objectives

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

Waste management Objectives

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

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WASTE MANAGEMENT

The annexed plans show the Construction of a Detached Dual Occupancy and its Strata Subdivision on Lot 5 Sec 54 DP 758207 No 26 Cavvanbah Street Byron Bay.

The proposed buildings achieves Bin Storage locations adjacent to each dwelling, with the required 1.2m wide access pathway along the western side of the development enabling access from the southern dwelling, and its garbage bin storage area, through to Cavvanbah Street as required by DCP 2014.

2.13 DCP 2014 Earthworks.

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

To minimise Environmental Impact.

To blend the development into the site.

To minimise erosion risk.

To minimise disturbance to the natural landform.

To encourage designs which blend into the natural landform.

Minimal earth works will result from the changes proposed.

This in turn results in a minimisation of Environmental Impact, blends the development into the site, avoids erosion risk, avoids disturbance to the natural landform, and achieves a design which blends into the natural landform.

On this basis it is considered that the proposal meets the Objectives of DCP 2014.



2.14 TREE REMOVAL DCP 2014 B1, B2.1 & B9

This report accompanies a Development Application for the construction of a Detached Dual Occupancy and its Strata Subdivision, including the removal of 6 Trees on site, and three within the road reserve to the north west.

Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay, site area of 803.2m².

The property is zoned R3 Medium Density Residential under the provisions of Byron Shire Local Environmental Plan 2014.

The nine (9) Trees proposed to be removed comprises:

TREES TO BE RETAINED are:-

Northern Boundary

- One – Brachychiton acerifolius (Flame Tree)
- One – Frangipani (Plumeria alba)
- One – Cupaniopsis anacardioides (Tuckeroo)

Southern Boundary

- One – Macadamia tetraphylla (Macadamia Nut)
- One – Frangipani (Plumeria alba)

Western Boundary

- Two – Cupaniopsis anacardioides (Tuckeroo)

TREES TO BE REMOVED are:-

Southern Boundary

- One - Cupaniopsis anacardioides (Tuckeroo)
- Two - Toona australis (Red Cedar)

Reason:-

Under Dwelling Footprint
Within Driveway

Northern Boundary and North West

- One - Frangipani (Plumeria alba)
- One - Cupaniopsis anacardioides (Tuckeroo)
- One – Archontopoenix cunninghamiana (Bangalow Palm)

Parking
Proximate to Pool & Solar Access.
Proximity to Dwelling

North West Road Reserve

- One – Brachychiton acerifolius (Flame Tree)
- Two – Non Native sp.

Proximity to Driveway
Proximate to Driveway

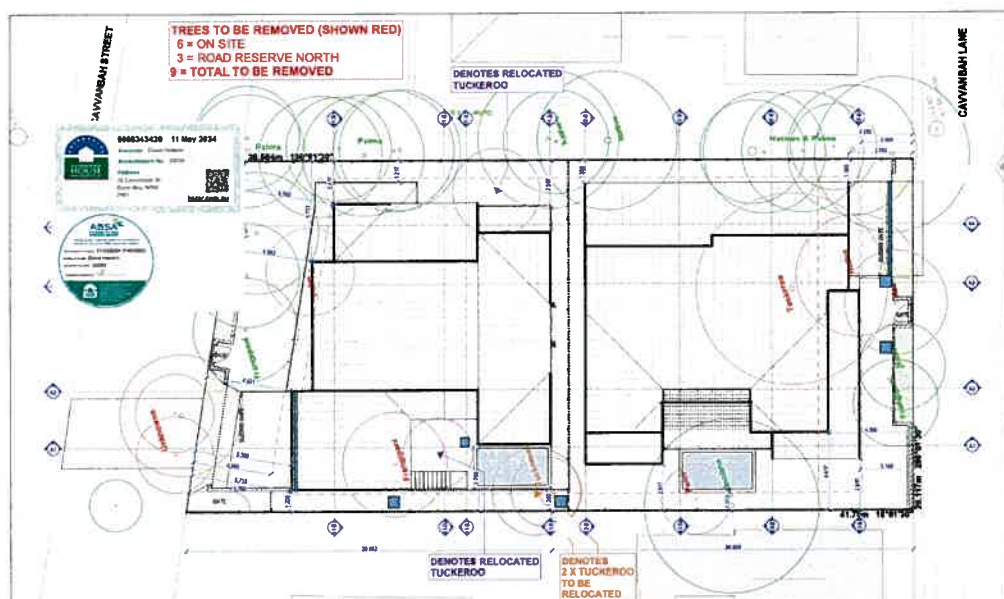
The nine (89) Trees proposed to be removed comprise

Key	Name	Height m	DBM mm	Crown m	TPZ m
1	Macadamia tetraphylla (Macadamia Tree)				
2	2 x Toona australis (Red Cedar)	8	270	5	7.2
3	1 x Brachychiton acerifolius (Flame Tree)	8	250	4	4.5
4	1 x Archontopoenix cunninghamiana (Bangalow Palm)	7	150	3	2.5
5	1 x Frangipani (Plumeria alba)	3	100	3	2
6	2 x Cassia sp	3	150	3	2
7	1x x Tuckeroo	8	0.6	8	7.2

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



Site Plan of Trees to be removed



DCP 2014 - Part "B1"

PRESCRIPTIVE MEASURES	PROPOSALS COMPLIANCE WITH D.C.P.
B1.1.1 Aims Objectives 1. Identify, retain and restore native vegetation and habitats for native species in patches of a size and configuration that will enable existing plant and animal communities to survive in the long term and support climate adaptation. 2. Identify and retain high carbon storage ecosystems (e.g. blue carbon systems such as salt marsh, mangroves and sea grasses), wildlife corridors and refugia. 3. Provide controls that prevent degradation or loss of ecological values & or biodiversity. 4. Provide guidance on the information required to enable informed decision making. 5. Ensure construction & operational impacts of development avoided & mitigated using current best practice standards. 6. Provide guidance on acceptable measures to avoid or minimise the impact of proposed development on biodiversity including proposals affected by Part 7 of the Biodiversity Conservation Act 2016 and the Koala Habitat Protection SEPP 2019. 7. Compensate for unavoidable habitat losses in accordance with applicable legislation, or in the absence of such legislation, contemporary best practice.	The minor works proposed on this existing developed urban site do not trigger more detailed ecological assessment as the trees to be removed were planted on this previously cleared site by the previous owner. 1x Macadamia tetraphylla (Macadamia Tree) 2 x Toona australis (Red Cedar) 1 x Brachychiton acerifolius (Flame Tree) 1 x Archontopoenix cunninghamiana (Bangalow Palm) 1 x Frangipani (Plumeria alba) 2 x Cassia sp 1x Tuckeroo The trees are located proximate to the proposed dwellings, and or within the driveway corridors. 2 x Cupaniopsis anacardioides (Tuckeroo), will be relocated (to the east and west of dwelling one (1). See Arborist report. Their replacement will also permit higher levels of solar access to the site. Their removal is to be more than compensated for by the additional plantings proposed. The proposed plantings will maintain flora and fauna visitation to the site, yet minimise risks to dwellings and infrastructure, and they will also improve solar access within the property.



B1.1.2 – Application This chapter applies to development on, or adjacent to, any land with natural features such as; High Environmental Value (HEV) vegetation, red flagged areas (areas of land with high biodiversity conservation value which should be excluded from the development envelope), koala use trees, watercourses, wetlands, threatened species and their habitat, threatened ecological communities, threatened populations, wildlife corridors, areas identified under the Coastal Management SEPP 2018, Koala Habitat Protection SEPP 2019 and the Byron Coast Comprehensive Koala Plan of Management. It further applies to vegetation clearing requiring development consent where: • The vegetation clearing is ancillary to development, or • It is a heritage item or located in a heritage conservation area, or • It is an Aboriginal object or in an Aboriginal place of significance or conservation area.	The annexed plans shows existing vegetation and the vegetation to be removed and the compensatory plantings proposed within the site, as well as the location of existing plantings and trees and plants to be retained. No Heritage Items, either Aboriginal or from white settlement, occur at or exist proximate to the site. The Heritage Character of the general area is addressed in the SEE.
B1.1.3 Relationship to LEP & NSW Legislation 1. LEP - supports the aims of other provisions of the relevant Local Environmental Plan in relation to the conservation and management of the natural environment. 2. EPA Act Objects of the EP&A Act (previously s5): • 1.3(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources, • 1.3(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, • 1.3(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats. EPA Act Sec 4.15 • 4.15(1)(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, • 4.15(1)(c) the suitability of the site for the development,	See Annexed Landscape Plan for locations of plants to be removed and Compensatory Plantings and locations. The minor works proposed on this existing developed urban site do not trigger more detailed ecological assessment as the trees to be removed were planted on this previously cleared site by the previous owner, 1x Macadamia tetraphylla (Macadamia Tree) 2 x Toona australis (Red Cedar) 1 x Brachychiton acerifolius (Flame Tree) 1 x Archontopoenix cunninghamiana (Bangalow Palm) 1 x Frangipani (Plumeria alba) 2 x Cassia sp 1x Tuckeroo The trees are located proximate to the proposed dwellings, and or within the driveway corridors. The trees are located proximate to the proposed dwellings, and or within the driveway



• 4.15(1)(e) the public interest. Biodiversity Conservation Act 2016 (BC Act) • 1.3(a) to conserve biodiversity at bioregional and State scales, and • 1.3(b) to maintain the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations, and • 1.3(c) to improve, share and use knowledge, including local and traditional Aboriginal ecological knowledge about biodiversity conservation, and • 1.3(d) to support biodiversity conservation in the context of a changing climate, and • 1.3(h) to support conservation and threat abatement action to slow the rate of biodiversity loss and conserve threatened species and ecological communities in nature, and • 1.3(k) to establish a framework to avoid, minimise and offset the impacts of proposed development and land use change on biodiversity, and • 1.3(l) to establish a scientific method for assessing the likely impacts on biodiversity values of proposed development and land use change, for calculating measures to offset those impacts and for assessing improvements in biodiversity values. Local Land Services Act 2013 (LLS Act) • (e) to ensure the proper management of natural resources in the social, economic and environmental interests of the State, consistently with the principles of ecologically sustainable development (described in section 6 (2) of the Protection of the Environment Administration Act 1991), and • (f) to apply sound scientific knowledge to achieve a fully functioning and productive landscape. In circumstances where a previously approved development exists and a further proposed development requires the clearing of native vegetation, ancillary or otherwise, Section 60Q (2) applies where: • Schedule 5A does not permit clearing or any other activity: (a) without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or (b) in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or	corridors. 2 x Cupaniopsis anacardioides (Tuckeroo), to be relocated to the east and west of Dwelling 1. Their replacement will also permit higher levels of solar access to the site. Their removal is to be more than compensated for by the additional plantings proposed. The site is located outside mapped Biodiversity Conservation Mapped Areas The minor works proposed on this existing developed urban site do not trigger more detailed ecological assessment as the trees to be removed were planted on this previously cleared site by the owner, and their removal is more than compensated for by the additional plantings proposed.
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another Part of this Act. as well as Section 60S (4) where: • A land management (native vegetation) code does not permit clearing or any other activity- (a) without an approval or other authority required by or under another Act or another Part of this Act, or (b) in contravention of any provision of or made under another Act or another part of this Act. as administered by Section 4.17 (previously s80A) of the Environmental Planning and Assessment Act 1979. Does the Biodiversity Offset Scheme (BOS) apply	The Biodiversity Offset Scheme does not apply to this site.
B1.1.5 Biodiversity Planning Principles a. The precautionary principle If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by: (a) careful evaluation to avoid, wherever practicable, serious or irreversible damage, and (b) a rigorous and science-based assessment of the risk – weighted consequences of various options; b. Inter-generational equity requires the present generation to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations; c. Conservation of biological diversity and ecological integrity The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making, including in the formulation, adoption and implementation of any economic and other development plan, program or project. Biological diversity means the diversity of life and comprises: - Genetic diversity (the variety of genes in a population) - Species diversity (the variety of species) - Ecosystem diversity (the variety of communities and ecosystems). d. Improved valuation, pricing and incentive mechanisms Environmental factors should be included in the valuation of assets and services such as; (a) the polluter pays principle, where those who generate pollution and waste should bear the costs of containment, avoidance or abatement, (b) the	The minor works proposed on this existing developed urban site do not trigger more detailed ecological assessment as the trees to be removed were planted on this previously cleared site by the previous owner, 1x Macadamia tetraphylla (Macadamia Tree) 2 x Toona australis (Red Cedar) 1 x Brachychiton acerifolius (Flame Tree) 1 x Archontopoenix cunninghamiana (Bangalow Palm) 1 x Frangipani (Plumeria alba) 2 x Cassia sp 1x Tuckeroo The trees are located proximate to the proposed dwellings, and or within the driveway corridors. The trees are located proximate to the proposed dwellings, and or within the driveway corridors. 2 x Cupaniopsis anacardioides (Tuckeroo), to be relocated to the east and west of Dwelling One (1). The trees are located proximate to the proposed dwellings, and or within the driveway corridors. Their replacement will also permit higher levels of solar access to the site. Their removal is to be more than compensated for by the additional plantings proposed. The site is removed from approximate habitat areas by the developed Cavvanbah Street Road Reserve and Residential Development to the north, and as such the sensitive development proposed meets the principles of precaution, inter-generational equity and



user of goods and services should pay prices based on the full life cycle of the costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, (c) environmental goals, having been established, should be pursued in the most cost effective way.	biological diversity and integrity, with the compensatory plantings proposed, improving the habitat value of the area.
Habitat Retention P5. In situ conservation Biodiversity is best conserved in situ (on site). The prevention of habitat loss and degradation is the first priority. P6. Habitat fragmentation and connectivity Council decision-making should not contribute to habitat fragmentation and wherever possible, increase landscape connectivity. Natural areas are strongly influenced by the landscape in which they are embedded. The larger, less disturbed and better connected natural areas are, the more likely they are to retain a higher level of biodiversity and resilience to impacts. P7. Small remnants Small patches of habitat should be retained where possible and measures taken to mitigate edge effects and other relevant threats. P8. Disturbed habitats Where possible, measures should be taken to retain and restore disturbed habitats. P9. Patch diversity Measures should be taken to conserve biodiversity at patch scale. Patches of bushland or other natural areas (e.g. wetlands) containing multiple vegetation communities commonly support high species diversity in conjunction with ecosystem diversity P10. Fauna habitat Key fauna habitat resources should be retained and where possible enhanced. Many native fauna including threatened species have specific resource requirements (e.g. feeding, nesting, and roosting) for their continued survival. A P11. Watercourses Natural watercourses and the riparian land adjoining them should be retained and rehabilitated where possible. These areas provide critical resources and refuge during extreme weather events particularly during drought and or fire. P12. Under reserved and over-cleared vegetation communities Ecological communities that have been over-cleared or under-reserved in the formal reserve system (e.g. National Parks and Nature Reserves)	The minor works proposed on this existing developed urban site do not trigger more detailed ecological assessment as the trees to be removed were planted on this previously cleared site by the owner, and their removal is more than compensated for by the additional plantings proposed. The site is removed from approximate habitat areas by the developed Cavvanbah Street Road Reserve and Residential Development to the north, and as such the sensitive development proposed meets the principles of precaution, inter-generational equity and biological diversity and integrity, with the compensatory plantings proposed, improving the habitat value of the area.



should be retained and where possible enhanced.

P13. Avoid and minimise Priority should be given to avoid any impacts at their source. In this context 'avoid' means "to keep away from". Evidence of avoidance may be illustrated through the use of ecological buffers, the design of a development footprint, or by regulating the timing or location of activities. If it is not possible to avoid impacts, then opportunities should be sought to minimise the impacts.

P14. Biodiversity offsets and compensation Subject to P13 above, where avoidance and minimisation have been clearly considered and illustrated, unavoidable residual impacts arising from development may be allowable. In such instances, an acceptable arrangement to compensate for, or offset the loss of biodiversity values should only occur on or near the impact site.

P15. Habitat heterogeneity Ecological mapping and assessments should recognise that there can be considerable local variation within and between habitats belonging to individual ecological communities described at regional scales. Ecological communities are commonly described regionally in general terms but are characterised at specific sites by local variations. Individual site specific responses to environmental and climatic conditions, disturbance regimes and cumulative impacts and location may all contribute to these distinctions.

P16. Indirect and cumulative impacts Ongoing pressures on biodiversity arising from indirect and/or cumulative impacts of development must be understood, minimised and effectively mitigated.

P17. Habitat restoration and management As much of Byron Shire contains fragmented landscapes, it is not sufficient to simply prevent direct habitat loss. Retained habitats associated with development should be actively managed (through a management plan or other mechanism) to prevent the ongoing degradation of biodiversity values and will contribute to climate adaptation.

P18. Ecological setback Developments adjoining natural areas are to provide for an effective ecological setback to avoid and minimise adverse impacts on biodiversity values.

The Cavvanbah Street road reserve and Urban development opposite to the north, separates the site from habitat areas.



P19. Bushfire Measures to mitigate bushfire risk should take into account the natural fire regimes essential for supporting the relevant ecological community(s) and avoid negative impacts on biodiversity. P20. Weeds and cultivated plantings Development adjacent to natural areas should avoid the use of non-indigenous plants or have measures in place (such as slashed bushfire asset protection zones) to limit their dispersal into natural areas. P21. Introduced animals Development should not cause or exacerbate adverse impacts on biodiversity from the introduction of animals. P22. Fauna protection Where appropriate, developments should integrate measures to protect and facilitate native fauna occupancy and movement (such as the suitable design of swimming pools, fences, landscaping, road crossings, nature strips and nest structures etc.). P23. Construction impacts Where appropriate, measures to ensure any impacts on biodiversity and other natural resources are effectively mitigated throughout the construction phase of the development. P24. Ecological assessment The assessment of biodiversity values should address site, landscape and regional values in accordance with contemporary best practice. P25. Costs of ongoing management In accordance with the principles of Ecologically Sustainable Development (see P1) the proponent or development should bear the costs of managing ongoing pressures placed on biodiversity values as a result of development.	All plantings proposed are well removed from the residential dwellings proposed on site to ensure that bushfire safety is achieved. All weeds are to be removed as part of the ongoing maintenance of the site. All retained vegetation is to be fenced off during construction to avoid impacts on root zones. The 2 x Cupaniopsis anacardioides (Tuckeroo), to be relocated to the east and west of Dwelling One (1) is to be managed in accordance with AS and contractors to provide safety and security to the species.
B1.2.1 Development Envelope Controls Objectives 1. To identify ecologically significant areas (red flags) with the potential to influence the shape and form of a proposed development envelope. 2. To ensure areas that areas to be retained are adequately protected and or managed to guarantee their long-term ecological viability. 3. To ensure 'no net loss of biodiversity' through the principles of avoiding and minimising development impacts.	The site is removed from approximate habitat areas by the developed Cavvanbah Street Road Reserve and Residential Development to the north, and as such the sensitive development proposed meets the principles of precaution, inter-generational equity and biological diversity and integrity, with the compensatory plantings proposed, improving the habitat value of the area.
B1.2.2 Development infrastructure and other controls Included within the development envelope are associated	The development does not impact upon Council infrastructure.



infrastructure such as (but not limited to) roads, driveways, fencing, waste water systems, landscaping, bushfire protection zones, ecological setbacks, other development setbacks and easements for telephone, electricity and other services. Wherever development is proposed on land with or adjacent to, High Environmental Value (HEV) vegetation and/or red flags, the following prescriptive measures apply.	
B1.2.3 Koala Habitat The Byron Coast Koala Habitat Study completed in 2012, identified a small population of approximately 240 koalas utilising 1750 hectares of highly fragmented habitat across the coastal portion of Byron's Local Government Area. The report found that based on an optimal occupancy rate of 50%, a minimum area of 2,800 hectares of well-connected koala habitat would be required to ensure the population's long-term viability within the coastal area.	This small urban allotment is not Koala Habitat, and the trees to be removed, are not Koala Food Trees, are separated from distant bushland by roads, fences and urban development. Koala Habitat does not exist in the area.
B1.2.4 Ecological Assessment For development proposals required to be assessed under the Environmental Planning and Assessment Act 1979 on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or red flags (Table 3), an ecological assessment (Appendix 2) may be required. This requirement is in addition to any other statutory requirements or provisions as defined under other legislation e.g. Coastal Management SEPP 2018 or Koala Habitat Protection SEPP 2019.	The minor works proposed on this existing developed urban site do not trigger more detailed ecological assessment as the trees to be removed were planted on this previously cleared site by the owner, and their removal is more than compensated for by the additional plantings proposed.
B1.2.5 Vegetation Management Plans & Biodiversity Conservation Management Plans In situ (on site) conservation ensures the retention, protection and rehabilitation of native vegetation and habitat on the site where it naturally occurs. As such it is the preferred option to offset any impacts (residual or otherwise) to biodiversity that may arise from development. Vegetation or Biodiversity Conservation Management Plans conserve local level genetics and ecosystem processes through the retention and restoration of native vegetation, thereby providing for the maintenance and connectivity of remnant and regrowth vegetation and habitat. Under changing climatic conditions, the restoration of existing native vegetation on site increases resilience and supports climate adaptation.	The minor works proposed on this existing developed urban site do not trigger more detailed ecological assessment as the trees to be removed were planted on this previously cleared site by the owner, and their removal is more than compensated for by the additional plantings proposed. On this basis, no VMP is required.



DCP 2014 - Part "B2.1"

PRESCRIPTIVE MEASURES	PROPOSALS COMPLIANCE WITH D.C.P.
B2.1.3 Application 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. Tree and Vegetation Management Pathways To remove / prune vegetation in Byron Shire the following pathways shown in Figure 1 apply. The pathways within Figure 1 are described below: If the proposal to remove or prune vegetation involves development now or in the future, then Chapter B1 Biodiversity applies.	Requirement set within DCP 2014 are complied with as follows: The nine (9) Trees proposed to be removed comprise: 1x Macadamia tetraphylla (Macadamia Tree) 2 x Toona australis (Red Cedar) 1 x Brachychiton acerifolius (Flame Tree) 1 x Archontopoenix cunninghamiana (Bangalow Palm) 1 x Frangipani (Plumeria alba) 2 x Cassia sp 1x Tuckeroo The trees are located proximate to the proposed dwellings, and or within the driveway corridors. 2 x Cupaniopsis anacardioides (Tuckeroo) 9m, these are to be relocated the east and west of Dwelling one (1). Their replacement will also permit higher levels of solar access to the site. Their removal is to be more than compensated for by the additional plantings proposed.
B2.2 Declared Trees and Vegetation This chapter of the DCP addresses SEPP (Vegetation in NonRural Areas) 2017 - removal or pruning of vegetation in non-rural areas, and declares such vegetation under Part 3 clause 9(1),(2). In accordance with Part 2 clause 7(1) of the Veg SEPP a person may not remove vegetation that is declared within a DCP without a permit granted by Council. Prescriptive measures The following vegetation is declared under Part 3 clause	The eight (8) trees to be removed are not mapped under and State Policy, and none are listed as Koala Food Trees. This small urban allotment is not Koala Habitat, and no Koala Food Trees are to be removed, and the site is separated from distant bushland by roads, fences and urban development.



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driveways, etc. Dimensions between the centre of the subject tree(s)/vegetation and property boundaries and buildings should be included;

e. a title, property address, Lot and Deposited Plan number, north point, scale, date, legend and author.

6. A description of each numbered tree/vegetation detailing the following:

a. species of tree/vegetation (common name and botanical name);

b. quantity affected;

c. approximate height and DBH (diameter at breast height); and

d. colour photo(s) of the tree/vegetation to assist in identification (whole tree, bark, leaves) and a colour photo(s) to establish the context, location and position of the vegetation on the property.

7. The reasons why removal/pruning is required.

The following compensatory ratios apply:

1:10 for trees of high environmental value;

e.g. local indigenous trees in high environmental value vegetation and habitat, local indigenous rainforest trees, trees within a wildlife corridor, trees with habitat value for local wildlife, trees with a diameter at breast height >50cm.

1:5 for trees of medium environmental value;

e.g. local indigenous trees not located in high environmental value vegetation and habitat, a wildlife corridor or which do not have habitat value for local wildlife.

1:1 for trees of low environmental value; e.g. other trees not located in high environmental value vegetation and habitat, a wildlife corridor or which do not have habitat value for local wildlife.

Compensatory Plantings are proposed on a 1 : 10 basis, for the two (2) Tuckeroo trees.

Sub Total 20 trees.

1 : 5 Basis for the

2 x *Toona australis* (Red Cedar),

1 x *Brachychiton acerifolius* (Flame Tree), and

1 x *Archontopoenix cunninghamiana* (Bangalow Palm), as these are either common or are not found in the local coastal heath and littoral rainforest of the local area.

Sub Total 20 trees.

1 : 1 for the 1 x Frangipani (*Plumeria alba*), and 2 x *Cassia* sp.

Sub Total 3 trees.

As such the eight (8) trees to be removed require the planting of 43 trees, palms and shrubs.

See Landscape Plan for details.



2.15 LANDSCAPING & COMPENSATORY PLANTINGS – DCP 2014 Part B.9

The following landscape plantings will create native habitat within this urban property, and also meet DCP 2014 requirements. Landscape plantings propose native species with a proven track record, to improve the visual integrity of the site, to provide screening between the dwelling and adjacent houses, and to achieve a broad habitat base within an urban location.

Landscaping is proposed to thus effect privacy, visual softening, and broaden the habitat base of the area, as per. the attached plan.

The following landscape plantings will add to the sites habitat value within an urban location (See Site Plan).

Landscape plantings propose native species with a proven track record, to improve the visual integrity of the site, and to achieve a broad habitat base within an urban location.

Landscaping is proposed to thus effect privacy, visual softening, and broaden the habitat base of the area, as per. the attached plan.

The basic aims of these landscape plans are:-

- 1). The embellishment of the natural eco-base;
- 2). To create an environment of privacy for the residents;
- 3). The creation of usable spaces within the design;
- 4). The enhancement of the visual atmosphere of the site.
- 5). To provide a landscape design that is easy to maintain and construct.

LANDSCAPE DEVELOPMENT PLAN

These landscape details have been prepared in conjunction with Mr. D. Sweet Ecologist, to meet the design requirements specified in Part B9 of DCP 2014.

To assure Council that the proposal meets the requirements of DCP 2014 part B9, the following checklist precedes the Landscape Plan details.

DCP 2014 - Part B9.4 Attached Dwellings and Residential Flat Buildings

<u>PRESCRIPTIVE MEASURES</u>	<u>PROPOSALS COMPLIANCE WITH D.C.P.</u>
B9.4.1 Landscape Principles Objectives - ensure a high quality landscape & aesthetic environment for attached dwellings. Performance Criteria Multi dwelling housing, attached dwellings and residential flat buildings shall provide a high quality landscape that seeks to enhance the amenity and function of the development and provide a pleasant environment for residents that supports their physical and psychological well-being. Prescriptive Measures 1. The following design requirements apply to multi dwelling housing, attached dwellings and residential flat buildings developments: 2. a) retention of suitable existing vegetation; b) screen planting to street frontages and driveway areas, to provide privacy between dwelling houses and around the boundaries of the site; c) provision of pleasant landscaped settings	Vegetation removal is limited to 1x Macadamia tetraphylla (Macadamia Tree) 2 x Toona australis (Red Cedar) 1 x Brachychiton acerifolius (Flame Tree) 1 x Archontopoenix cunninghamiana (Bangalow Palm) 1 x Frangipani (Plumeria alba) 2 x Cassia sp 1x Tuckeroo The trees are located proximate to the proposed dwellings, and or within the driveway corridors. The trees are located proximate to the proposed dwellings, and or within the driveway corridors. 2 x Cupaniopsis anacardioides (Tuckeroo) to be relocated proximate to Dwelling one (1). Plantings help create private areas, as well as windbreaks and micro-climates. Plantings assist in blending the building into the site, and the site into the local environment.



for the enjoyment of residents; d) planting selection that relates to building scale and mass. Common landscaped area must not be less than total areas required for each dwelling house, less total areas of approved private courtyards & private open space balconies. B9.1 – Dwelling Size to Landscape Area Small (under 55 m² floor plan area - 50m² Medium (55-85 m² floor plan area - 70m² Large (over 85 m² floor plan area - 90m²	Each dwelling easily achieves the required 90m² of landscaped area, excluding any area used for vehicle circulation or parking. (257.19m² of Deep Soil Area proposed). Over 30% of the site consists of deep soil areas.
B9.4.2 Common Landscaped Area Objectives 1. To ensure appropriate treatment of common landscaped areas. Performance Criteria 1. Landscaped areas and landscaping must be considered as components of the site planning process and must reflect the scale of development. 2. Landscaping must complement existing streetscapes, urban landscape and bushland, and must be in scale with the height and bulk of buildings. Landscaping must be sensitive to site attributes such as existing landscape features, streetscape, ecology, land capability, micro-climate, views and vistas. 3. Development must be designed to maximise the number of trees retained on the site. Prescriptive Measures 1. The common landscaped area of the site must be in accordance with Section B9.4.1. 2. A minimum of 75% of the total common landscaped area of the site must consist of deep soil areas. Areas of landscaping over underground car parks, and the like, cannot be included in the calculation of deep soil areas. 3. The landscape design must address: 4. a) the retention and provision of appropriate trees on the site; b) the use of earth mounding and terraced areas to create useful and visually pleasing recreation areas and to assist screening; c) the orientation of landscape areas with regard to sunlight and prevailing winds; d) the provision of sufficient areas adequately shaded against the summer sun and giving adequate access to the winter sun. Areas used for the management of on-site	With over 30% of the site kept as deep soil areas, common landscaped areas easily meet these design requirements.



sewage effluent must be excluded from calculations of the common landscaped area.	
B9.3 General Landscaping Principles Objectives - Specify general landscape design principles Performance Criteria - Landscape Plans demonstrate consistency with following general principles: 1. Landscape design for crime prevention and safety, comply with requirements of Chapter B11 Planning for Crime Prevention, and must minimise the potential for crime and vandalism. 2. Not to interfere with utilities and services 3. Or function and accessibility of underground or overhead services and facilities, including inspections pits/ meters. 4. Landscaping not interfere with the structural integrity of buildings and structures a) Trees to be planted 3 m from buildings. b) Consideration given to the size and spread of the tree when it is mature. Adequate space for branches and roots without interfering with building eaves, walls, concrete slabs, foundations, driveways, paths, retaining walls or other built structures. 5. Conserve and improve natural resources and biodiversity. Design must: a) retain and protect existing significant native vegetation on the site wherever possible; b) retain any trees or other vegetation of cultural or heritage significance; c) incorporate the retention of existing mature trees (with the exception of weed species) into the landscape design wherever possible; d) utilise plant species locally indigenous to the area (and preferably) sourced from the local area, in preference to exotic plant material, wherever practicable; e) Ensure that weed species are removed from the site and are not used in the landscape design; f) Incorporate compensatory plantings whenever significant native vegetation is removed or damaged; g) on larger land parcels, incorporate bushland restoration/ regeneration works in strategic areas to consolidate naturally occurring plant communities and assist in the remediation of damaged lands.	Requirement set within DCP 2014 are complied with as follows: 1. Landscape Design maintains clear lines of sight between the access point and the proposed dwellings, thus meeting B11 Crime Prevention objectives. 2. & 3. All landscaping is located well clear of services within the site. 4. Landscaping is positioned to be well clear of foundations, driveways and paths. Trees are located such that their mature height and spread will not detract from the integrity of assets, nor impede solar access. 5. Compensatory Plantings are proposed to counter tree removal required, and all other vegetation is to be retained and protected from the development through the erection of exclusion tape during construction. Vegetation chosen within landscape plantings relates to the nearby coastal forests, and as such provides a planting schedule which mirrors off site habitat.



Where a street or a locality has a specific character derived from existing vegetation, similar or compatible species are planted on the site (except where the existing species are undesirable weed species). 6. Landscaping contributes to streetscape amenity and integrates development into landscape setting; endeavour to soften hard-surfacing, e.g. walls, car parks and pavements. Height of plants relate to the scale of the building(s). 7. Plant species are selected for long-term survival, minimal maintenance and visual interest. 8. Plant species used in landscaping must: a) be suited to prevailing site conditions (such as soil characteristics, sun, shade, wind, rainfall and drainage regimes) and require minimal maintenance; b) be hardy and long-lived; c) be predominantly locally indigenous species (sourced from the local area wherever practicable), in preference to exotic plant species; d) provide on-going visual interest through form, colour, texture, floral display and the like. Landscaping improves the microclimate in and around buildings and enhances the function of outdoor living spaces Landscaping must provide year-round shade, shelter and amenity to outdoor living areas and help to define the function of different outdoor spaces. 9. Landscaping of public and semi-public areas provides clearly defined pedestrian pathways and assists with way-finding 10. design of public areas / car parking areas must incorporate: a) pedestrian pathways with different finish to differentiated from driveways; b) planting or design to help drivers and pedestrians locate entry/ exit points; c) planting or other design elements that assist pedestrians find their way around safely. Adequate landscape buffers between incompatible landuses. 11. Landscaping complies with bushfire protection requirements Where the proposed development is located on land mapped as Bushfire Prone Land, landscaping around proposed buildings must comply with the current legislative requirements of the Rural Fires Act 1997.	6. Landscaping contributes to the streetscape by softening the bulk and scale of the proposed development, and ensures visual continuity with the revegetating character of the local area since recent urban development occurred. 7. & 8. All species chosen relate to the nearby coastal forests and have been selected for their low maintenance and low water requirements. Form, shape, height and colour attributes of the plants proposed form an integral component of the design, which blends the building into the site, and the site into the local environment. A minimum of 40m². of private openspace is provided to the north or west of each dwelling, thus providing large yard areas with good solar access, and which are protected from prevailing winds. This achieves an effective micro-climate about the dwellings to improve residential amenity, and the health of the plants proposed. 9. Public and semi public areas within the site are clearly defined by paths and plantings. 10. No commercial or industrial spaces proposed. Internal paths are of a different finish to driveways to achieve visual separation and pedestrian safety. 11. Landscape plantings are kept well clear of the buildings external surfaces to optimise fire safety. The site is not located within a Bushfire area.
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B9.12.2 - Roof Decks and Balconies Objectives 1. To enhance the visual amenity and appearance of rooftops and balconies. Performance Criteria 1. Rooftop and balcony planting (or vertical landscaping) is to be used on the upper levels of higher buildings to: a) promote a more attractive facade for multi-level buildings; b) soften the bulk of the building; c) graduate the height of the building with planting; d) increase privacy between upper level balconies and dwelling houses; e) provide a subtropical ambience for buildings. 2. Where planter bays or landscape beds are proposed applicants are directed to the minimum landscaping provisions under the Residential Design Flat Code (Planning NSW) – Planting on Structures for depth and dimensions of planter bays and volume of soil required. 3. Roof decks must be so designed and constructed as to be structurally capable of carrying a sufficient volume of topsoil to allow development of a planting program integrated with landscape development on other parts of the site.	N/A.
B9.12.3 Climate and Microclimate Objectives 1. To ensure that the design of developments and landscaped areas addresses the climatic characteristics of the area and the microclimate of the site. Performance Criteria 1. Landscaping should be designed to enhance and reinforce positive climatic influences and minimise the impact of adverse climatic features. 2. A site's microclimate is directly affected by a combination of the prevailing climatic conditions, the site's aspect (i.e. the direction it faces), the topography, the vegetation and the structures. With due consideration to the prevailing weather conditions, landscaping can effectively control climatic impacts on buildings and outdoor spaces. Microclimate control aspects of landscaping must be designed to maximise the opportunity to create a comfortable	Each individual courtyards located with north or west aspect with the building and plantings providing protection form cold southerly winter winds, yet permitting access to cool northern summer breezes, and maintain solar access to open space areas and internal living areas. The form, shape, height and colour attributes of the plants proposed form an integral component of the design, which blends the building into the site, and the site into the local environment. A minimum of 40m2. of private open space with good solar access is provided to each dwelling, and these are protected from prevailing winds. This achieves an effective micro-climate about the dwellings to improve residential amenity, and the health of the plants proposed.



environment. Landscape design must take into account the placement of evergreen and deciduous species to ensure winter sun penetration and summer shade to buildings and outdoor open space/ recreation areas. In particular: a) consider shade and canopy spread of trees when locating planting in design; b) deciduous vegetation to the north of the block provides summer shade and allows winter sun; c) vegetation on the western side of the block assists in control of afternoon sun; d) evergreen vegetation should be planted on the eastern, western and southern sides of the block to provide summer shade and to deflect cold winter winds. Prescriptive Measures In summer the western elevations of buildings should be protected from the afternoon sun with trees of suitable mature height.	
B9.12.4 Existing Vegetation Objectives 1. To promote ecological sustainability and to optimise aesthetic character by maximising retention of existing vegetation. Performance Criteria 1. Landscaping should retain, protect and enhance existing natural vegetation. 2. Vegetation retention must be considered at the initial stages of development design. Buildings, roads, parkland, or other components of a development must be located to retain maximum vegetation on a site. Design intent is important in the protection of significant vegetation. 3. Maximum advantage should be taken of existing mature trees and shrubs on the site and these should be incorporated into the overall landscape strategy. The retention of vegetation on a development site adds an "established" effect and an immediate vertical dimension to the design. Existing vegetation also assists in the retention of the natural character of the Shire and has ecological benefits. In addition, existing vegetation on a site may be significant for historical, aesthetic or environmental reasons and may be required to be retained by Council provisions. 4. Provision must be made in the design for the protection of existing vegetation during construction works – for example, fencing barriers and appropriate signage should be	The sites are cleared land covered in lawn. The proposed landscape plantings, ensure that the buildings will be well screened both within the site and from adjacent properties and the road such that the development is not visually dominant. TREES TO BE REMOVED. 1x Macadamia tetraphylla (Macadamia Tree) 2 x Toona australis (Red Cedar) 1 x Brachychiton acerifolius (Flame Tree) 1 x Archontopoenix cunninghamiana (Bangalow Palm) 1 x Frangipani (Plumeria alba) 2 x Cassia sp 1x Tuckeroo The trees are located proximate to the proposed dwellings, and or within the driveway corridors. 2 x Cupaniopsis anacardioides (Tuckeroo), are to be relocated. East and west of Dwelling one (1). These are to be replaced with compensatory native plantings. The landuse will thus not cause any adverse environmental impact, as new plantings will mirror species found within and adjacent to the site, and will positively add to the quality of the environment.



provided. Particular effort must be made to protect the root zone of those trees to be retained, by avoiding compaction of this area by construction vehicles, and by ensuring that any stockpiling of materials occurs well away from the drip line of the tree. 5. The effective use of vegetation on a site can also substantially reduce the landscaping costs of a development and should be considered in the design process.	
B9.12.5 Planting Size, Density and Species Objectives 1. To ensure that landscape and planting design is compatible with the scale and character of the proposed development. 2. To ensure that the density of landscaping and planting is compatible with the long term and short term character of the proposed development. 3. To promote a landscape character in the Shire which is based on locally indigenous plant species and the natural, subtropical environment of the area. 4. To promote sustainability through the provision of edible species in appropriate locations. Performance Criteria 1. The selected planting size, density and species is dependent upon a number of factors, including the scale and nature of the project, availability of planting stock and particular requirements specified in conditions in a development consent. In many cases follow-up planting is advantageous once initial planting is established. 2. The landscape plan needs to address size, density and species composition consistent with best practice landscape architecture or landscape design principles. Prescriptive Measures 1. The following planting sizes are the minimum required to achieve an initial impact in the landscape design: 2. a) street and feature trees: 45 litre min. b) trees: 300mm minimum pot size c) large shrubs: 200mm minimum pot size d) groundcovers: 140mm minimum pot size A minimum of 90% of all plants used shall be locally indigenous. These species are listed in the Native Species Planting Guide to Byron Shire which can be found on Council's website. 3. No species listed as undesirable in Chapter B2 Preservation of Trees and Other	Plants selected are to accord with the planting sizes recommended, i.e. Trees- 300mm minimum pot size. Large shrubs- 200mm minimum pot size Groundcovers- 140mm minimum pot size.



Vegetation shall be used in landscaping on any site. 4. Species listed as threatened species under the Threatened Species Conservation Act 1995 should not be used for landscaping purposes unless the genetic provenance can be demonstrated in terms of locally sourced seed stock. 5. In new developments, consideration will be given to the provision of dedicated areas for the growing of vegetables, fruit trees and other edible species as part of the landscaped areas.	
B9.13 Landscape Works and Maintenance B9.13.1 Landscape Construction Works Objectives 1. To ensure the viability and survival of landscape and planting works. 2. To ensure survival and ongoing functioning of landscaping and planting. Performance Criteria Landscape areas shall be constructed and maintained in accordance with best practice landscape architecture or landscape design principles.	These requirements have been met. See landscape plan details in this section of the report.

In relation to compliance with Part B9 of DCP 2014, the following information is provided.

- No species of threatened native flora exist on site, and the site is currently devoid of extensive forest areas.
- Soil type is "Sand and Clay", and as detailed on the plans, all planting holes will need to be deeply dug to approx. 400mm and soil mixed with a 50/50 mix of compost as part of the landscape design. Also mulch layers are proposed over planted areas to improve soil conditions, maintain soil moisture levels, increase micro-organism levels, and regulate soil temperature.
- As can be seen from the engineering plans, the plantings proposed are clear of overhead power lines and underground services within the road reserve.
- Landscape Specification details planting structure. "Over excavate each plant hole by at least twice the pot diameter and pot height".
No deep plantings are required other than as specified, due to the nature of the imported soils.
Spot levels are shown on plans, and as can be seen the site is relatively flat.
- Drainage achieved by adequate planter hole preparation and the intrinsic nature of the local soils at ground level, and via the soil profile and drainage created within planted areas.
- Location of species marked on annexed plans.
- A quote from contractors is being sought.



PLANTING SCHEDULE

Scientific Name	Common Name	No.	Symbol	Pot Size	Mature Ht.	Spread
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PALMS

Archontophoenix cunninghamiana	Bangalow Palm	12	1	4ltr	10m.	2.5m
Livistona australis	Cabbage tree palm	6	2	40ltr	10m.	2.5m

TREES

Cupaniopsis anacardioides	Tuckeroo	5	3	100mm	10m.	5m .
Euodia elleryana	Pink Euodia	5	4	100mm	9m.	5m .

SHRUBS

Acmena smithii (minor)	Creek Lilli Pilli	2	5	100mm	3m.	2.5m.
Callistemon salignus	Bottlebrush	4	6	100mm	8m.	3m
Cordyline congesta	Coastal cordyline	2	7	100mm	3m	0.6m
Grevillea "Robyn Gordon"	----	2	8	100mm	1m	1m
Leptospermum petersonii	Lemon Tea Tree	6	9	100mm	2m.	2m.
Melaleuca thymilifolia	Myrtle	2	10	100mm.	1.5m.	1m
Westingria fruticose	Native Rosemary	9	11	100mm	1.6m	1.4m

SHRUBS & UNDERSTOREY

Alpinia caerulea	Native Ginger	30	12	75mm	1.2m	1m.
Lomandra longifolia	Spiny-headed mat-rush	30	13	75mm	0.8m	0.8m
Melastroma affine	Native lasiandra	30	14	75mm	0.6m	0.6m



2.16 DCP 2014 STORMWATER CONCEPT PLAN

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

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

The attached site plan shows the site is gently sloping to the drainage in Cavvanbah Lane to the south. Drainage from the roof and driveways is to be via BASIX Tanks and Stormwater Detention Tanks. The attached NB Consulting Engineering

As such additional stormwater is controlled and local impact will be minimal (see attached Stormwater Design) revised May 2024 demonstrates NO adverse impact in the local drainage system will therefore result.

B3.2.3 Stormwater Management Objectives

1. To promote on-site stormwater management practices that support the 'predevelopment' hydrological regime (surface flow, streams and groundwater).
2. To ensure that new development does not reduce the effectiveness of existing drainage patterns (including built infrastructure).
3. To minimise the impacts of stormwater runoff from a site on adjoining properties.
4. To provide an acceptable level of protection against personal injury and property damage due to localised stormwater runoff.
5. To promote on-site retention, detention and infiltration of stormwater.
6. To promote stormwater harvesting and other forms of innovative water conservation.
7. To promote better integration of stormwater management into development proposals.
8. To ensure that on-site stormwater management facilities can be economically maintained, and that adequate arrangements are made for on-going maintenance.
9. To provide for the ongoing environmental health of receiving waters;
10. To ensure that stormwater management systems protect ground and surface water and other ecological values;
11. To achieve best practice stormwater treatment targets for stormwater quality.

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



The attached site plan shows the site is gently sloping to the drainage in Cavvanbah Lane to the south. Drainage from the roof and driveways is to be via BASIX Tanks and Stormwater Detention Tanks. The attached NB Consulting Engineering

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Performance Criteria

There are no performance criteria.

Prescriptive Measures

1. Development Applications

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

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

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

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2. Properties adjacent to or containing waterways

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

The property does not contain a waterway, and is only marginally flood prone.



3. Site Drainage

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

The attached site plan shows the site is gently sloping to the drainage in Cavvanbah Lane to the south. Drainage from the roof and driveways is to be via BASIX Tanks and Stormwater Detention Tanks. The attached NB Consulting Engineering

As such additional stormwater is controlled and local impact will be minimal (see attached Stormwater Design) revised May 2024 demonstrates NO adverse impact in the local drainage system will therefore result.

4. Lawful Point of Discharge

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



groundwater. Other storm events may be considered having regard to the consequences of failure and impacts on downstream properties.

vi) Pump-out systems, but ONLY for basement car park areas where: it can be demonstrated that, if gravity drainage is not possible, an easement cannot be obtained; the contributing catchment is the driveway ramp only, up to a maximum of 60 m² ; and, pump failure will not cause overflow affecting neighbouring properties or habitable floor areas.

The attached site plan shows the site is gently sloping to the drainage in Cavvanbah Lane to the south. Drainage from the roof and driveways is to be via BASIX Tanks and Stormwater Detention Tanks. The attached NB Consulting Engineering

As such additional stormwater is controlled and local impact will be minimal (see attached Stormwater Design) revised May 2024 demonstrates NO adverse impact in the local drainage system will therefore result.

5. Easements

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

Not Applicable.

6. On-site Stormwater Detention (OSD)

- a) On-site Stormwater Detention (OSD) shall be provided in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards.
- b) OSD shall generally be incorporated into all development (except as provided by 'c)' below), including the following:
 - i) residential, commercial and industrial development;
 - ii) educational establishments, hospitals, community services and other institutions;
 - iii) public buildings;
 - iv) impervious car parks; and
 - v) tennis and other impervious playing courts.
- c) OSD is not required in the following circumstances:
 - i) where the total net increase in impervious area is less than 150 m² ; Byron Shire Development Control Plan 2014 – Chapter B3 – Services Adopted 22 March 2018 Effective 12 April 2018 15
 - ii) if the application is for or relates to a dwelling house unless a restriction on title specifies otherwise;
 - iii) if the application is for development on land zoned RU1, RU2, or R5 unless needed to provide a lawful point of discharge;
 - iv) where the site drains directly to a trunk drainage system within the tidal reach of a river or stream;
 - v) where the site is located within a catchment within which a regional detention structure has been provided for the ultimate development of the catchment;
 - vi) where dispersion or infiltration is used as the means of stormwater discharge from the site; or
 - vii) where a Consulting Engineer has undertaken a detailed analysis of the entire catchment and demonstrated that the provision of detention on the subject property, including consideration of



the cumulative affect of detention provision across the catchment, will provide no benefit to any downstream drainage system for storm frequencies between the 5 year and 100 year ARI.
The attached site plan shows the site is gently sloping to the drainage in Cavvanbah Lane to the south. Drainage from the roof and driveways is to be via BASIX Tanks and Stormwater Detention Tanks. The attached NB Consulting Engineering

As such additional stormwater is controlled and local impact will be minimal (see attached Stormwater Design) revised May 2024 demonstrates NO adverse impact in the local drainage system will therefore result.

7. Stormwater Quality and Treatment

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

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

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

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

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

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

Table B3.2 – Pollutants and Retention Criteria

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



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

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

The attached site plan shows the site is gently sloping to the drainage in Cavvanbah Lane to the south. Drainage from the roof and driveways is to be via BASIX Tanks and Stormwater Detention Tanks. The attached NB Consulting Engineering

As such additional stormwater is controlled and local impact will be minimal (see attached Stormwater Design) revised May 2024 demonstrates NO adverse impact in the local drainage system will therefore result.

2.17 - DCP 2074 Ch 87 - Mosquitoes and Biting Midges

Prescriptive Measures

The following measures apply to all development incorporating a residential dwelling(s), educational establishment, recreation area or tourist and visitor accommodation located within a mosquito risk zone identified in Map 87.L:

- a) Development provide effective insect screening to all windows, doors and other openings to all parts of the development used for residential purposes.*
- b) Development incorporate an effectively screened outdoor area 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.*

The development is designed with screens to all windows to meet Bushfire regulations, and this in turn ensures exclusion of Mosquitoes and Biting Midges.

The existing stormwater drainage routes to the south of the site are to remain free draining, and as such no ponding of water will result and no potential will be created for Mosquitoes or Biting Midge breeding.

To this end the proposal satisfies Councils requirements under DCP 2014.



2.18 State Environmental Planning Policy (Resilience & Hazards - Coastal Management Areas) 2021

Construction of a Detached Dual Occupancy and its Strata Subdivision on Lot 5 Sec 54 DP 758207 No 26 Cavvanbah Street Byron Bay



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.

Note. Clause 2.14 provides that, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



- (2) Development for which consent is required by subclause (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 subclause (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 approved and in force under Division 6 of Part 5 of the *Crown Lands Act 1989*.
- (4) A consent authority must not grant consent for development referred to in subclause (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 clause 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 clause 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.

Response

The subject development is to take place on Residential R3 Zoned lands, with the development occurring over existing cleared and previously developed land. Also, the development areas within site are separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

The “Littoral Rainforest” and “Coastal Wetlands” areas do not occur proximate to the subject property.

The site is however located within the Mapped “Coastal” area, but as previously stated, the site is unlikely to be subject to immediate threat due to it being located separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

To this end the proposal totally satisfies the protection requirements of Division 1.

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 clause 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 on Residential R3 Zoned lands, with the development occurring over existing cleared and previously developed land. Also, the development areas within site are separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

The “Littoral Rainforest” and “Coastal Wetlands” areas do not occur proximate to the subject property.

The site is however located within the Mapped “Coastal” area, but as previously stated, the site is unlikely to be subject to immediate threat due to it being located separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

To this end the proposal totally satisfies the protection requirements of Division 1.

Division 2 Coastal vulnerability area

Note. At the commencement of this Policy, 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 on Residential R3 Zoned lands, with the development occurring over existing cleared and previously developed land. Also, the development areas within site are separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

The “Littoral Rainforest” and “Coastal Wetlands” areas do not occur proximate to the subject property.

The site is however located within the Mapped “Coastal” area, but as previously stated, the site is unlikely to be subject to immediate threat due to it being located separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

To this end the proposal totally satisfies the protection requirements of Division 2.



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 clause 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 subclause (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 clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

Response

The subject development is to take place on Residential R3 Zoned lands, with the development occurring over existing cleared and previously developed land. Also, the development areas within site are separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

The “Littoral Rainforest” and “Coastal Wetlands” areas do not occur proximate to the subject property.

The site is however located within the Mapped “Coastal” area, but as previously stated, the site is unlikely to be subject to immediate threat due to it being located separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

To this end the proposal totally satisfies the protection requirements of Division 3.

Based on the modified nature of the site, a long standing residential area and review of historical and cultural records of the site, it is unlikely to hold important significance or cultural objects related to Aboriginal culture. If any uses such as fishing/hunting occurred on the distant beach and swamp areas, then the use of these distant areas off site for commercial, residential and recreational purposes for over 100 years, has made research into the value of these areas, and their cultural interpretation, almost impossible.

Given the nature of the site i.e. it has been modified by urban and commercial development and construction of utility services, it is not considered to hold any archaeological values other than those associated with the early white settlement and their associated urban and commercial activities, and landuse practices. The site is not



mentioned in Aboriginal Heritage registers held by Byron Shire Council and NPWS, as containing historical or cultural objects or being a site of significance.

Given its location within the coastal plain prior to modification of the area by white settlement, it is likely to have been traversed by Aboriginal people as part of their hunting/gathering in the general foreshore and wetland area. Although no evidence can be found confirming this, the site, which is located well removed from the foreshore area, is unlikely to be of cultural significance. No shell or bone waste is evident within soil profiles within this previously developed site.

On this basis the proposed development does not detract from the Coastal Environment. To this end the proposal totally 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 clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

Division 5 General

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

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Not Applicable

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

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Not Applicable



2.14 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.

Not Applicable as the landuse is permissible under Byron LEP 2014.

2.15 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area

Not Applicable

Conclusion

The subject development is to take place on Residential R3 Zoned lands, with the development occurring over existing cleared and previously developed land. Also, the development areas within site are separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

The “Littoral Rainforest” and “Coastal Wetlands” areas do not occur proximate to the subject property.

The site is however located within the Mapped “Coastal” area, but as previously stated, the site is unlikely to be subject to immediate threat due to it being located separated from the coast to the north by over 200m of urban development, roads, the north coast rail line, and protected Coastal Habitat.

On this basis the proposed development does not detract from lands deemed to be either (a) the coastal wetlands and littoral rainforests area,; (b) the coastal vulnerability area,; (c) the coastal environment area,; (d) the coastal use area.

To this end the proposal totally satisfies the protection requirements of State Environmental Planning Policy (Resilience & Hazards) 2021.

2.19 S.E.P.P. (Resilience and Hazards) 2021 CONTAMINATED LAND.

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

- (1) A consent authority must not consent to the carrying out of any development on land unless—
- (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.



(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is— (a) land that is within an investigation area, (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out, (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land— (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Table 1. Some Activities that may Cause Contamination • acid/alkali plant and formulation • agricultural/horticultural activities • airports • asbestos production and disposal • chemicals manufacture and formulation • defence works • drum re-conditioning works • dry cleaning establishments • electrical manufacturing (transformers) • electroplating and heat treatment premises • engine works • explosives industry • gas works • iron and steel works • landfill sites • metal treatment • mining and extractive industries • oil production and storage • paint formulation and manufacture • pesticide manufacture and formulation • power stations • railway yards • scrap yards • service stations • sheep and cattle dips • smelting and refining • tanning and associated trades • waste storage and treatment • wood preservation

The Construction of a Detached Dual Occupancy and its Strata Subdivision on Lot 5 Sec 54 DP 758207 No 26 Cavvanbah Street Byron Bay, is a site that has not been used for cropping or for industrial purposes. On this basis there is no historic use of this site which would have resulted in contamination, and as such no additional testing is required over the developed land where the proposed Detached Dual Occupancy is to take place.

*The assessment satisfies Clauses 1(a) and 2 of SEPP (Resilience and Hazards) 2021
CONTAMINATED LAND, as there is no likelihood of contamination from the types of landuses listed in Table 1, and as such no further detailed assessment is required.*



2.20 Planning for Bushfire 2019.

The property is zoned R3, and the proposed Dual Occupancy Dwellings need to be located so as not to exceed a BAL 29 threat.

The proposal to construct two Dwellings is unlikely to come under severe bush fire risk due to the cleared and mostly managed nature of the surrounding lands, in particular the 41m of managed lands to the north, which incorporates the constructed Cavvanbah Street, road reserve which separates the site from the upslope Coastal Vegetation to the north.

To the east, south and west are managed urban lands.

The proposed Dwellings are located within an FDI 80 Fire Area.

On this basis the proposal is assessed under Table A1.12.6 of the Planning for Bushfire Protection Regulations. These regulations require that the new dwellings not exceed a Bushfire exposure greater than BAL 29.

Construction of a Detached Dual Occupancy.

Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St. Byron Bay. Area of 803.2m2.

Bush Fire Map (Byron Shire Council).



Vegetation.

The vegetation has been assessed over a distance of 140m from the Dwelling sites, back to existing bush vegetation both on and off site, in accordance with *Planning for Bushfire Protection 2019*.

Slope.

Based on the site inspection, the slope of the land over a distance of 140m from the indicative building in all directions has been assessed. In accordance with *Planning for Bushfire Protection*,

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



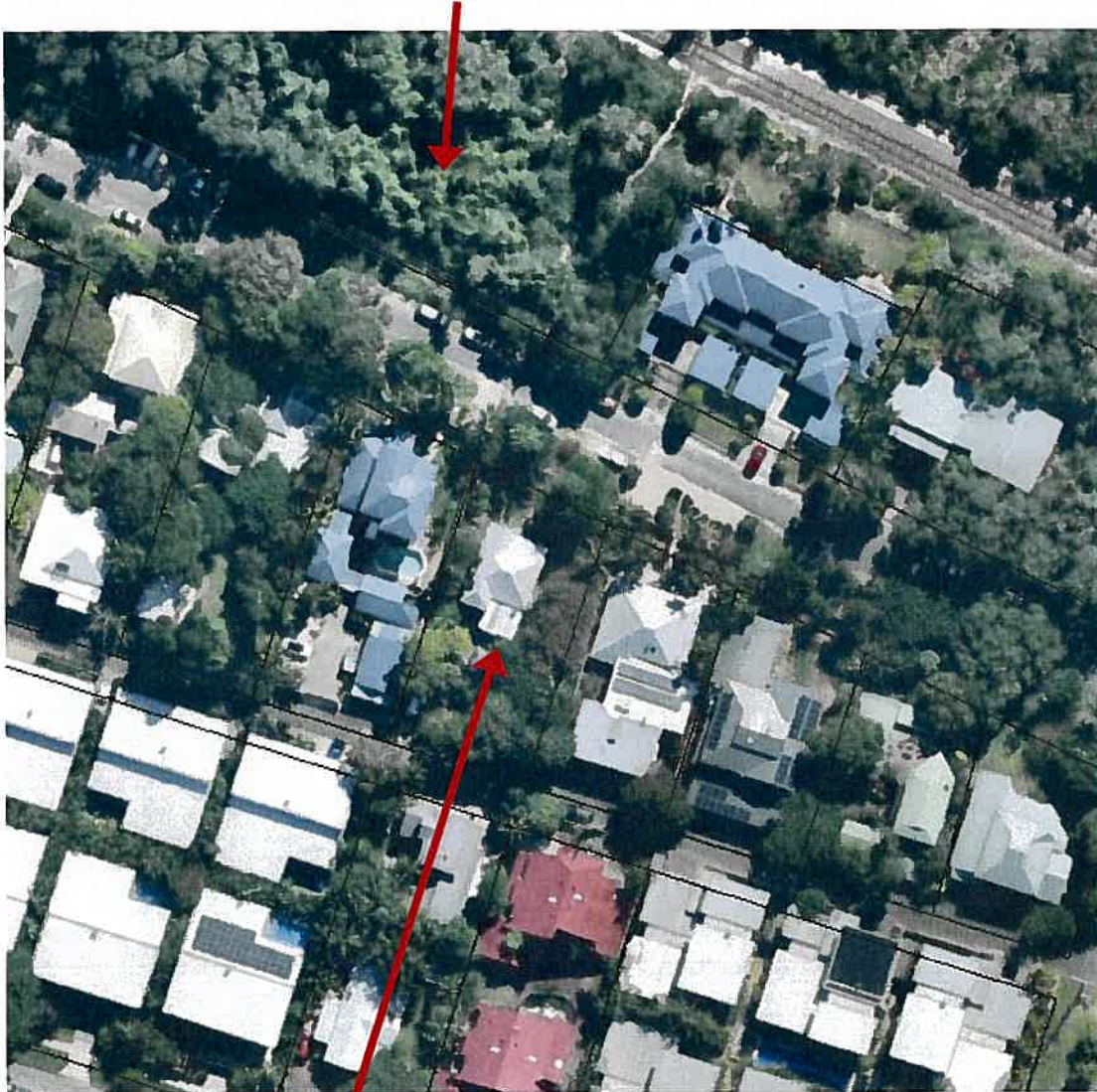
the slope has been assessed based on the gradient that will most significantly influence the fire behaviour of the site. The site is generally gently sloping to the north east.

Asset Protection Zone.

The Asset Protection Zone (APZ) acts as a buffer zone between the development and the hazard. The primary purpose of an APZ is to ensure that a progressive reduction of bushfire fuels occurs between the bushfire hazard and any habitable structures. The APZ consists of an Inner Protection Area (IPA) and an Outer Protection Area (OPA).

Table A1.12.6, within *Planning for Bushfire Protection 2019*, specifies the minimum APZ required in bushfire-prone areas as the proposal comprises a dwelling within FDI 80.

**Vegetation Up Slope to the North, across 41m of Managed Land, (Cavvanbah Street)
Coastal Forest comprising predominantly Tuckeroo and Banksia species.**



Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St. Byron Bay

Construct Detached Dual Occupancy & Strata Subdivision, Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay



Maximum BAL rating permitted for Dual Occupancy Development is BAL 29

Proposed Northern Dwelling

Develop ment Aspect	Hazard/ Vegetation within 140m of Development	Predominant Vegetation Class FDI 80	Average Slope of Land	Recommended Width of Asset Protection Zone table A1.12.6
North	Managed land 41m then Coastal Forest	Forest	Up Slope	20m APZ is required. 41m proposed BAL 12.5
South	Managed land	Managed Land	Down Slope	No APZ is required. BAL Zero.
West	Managed land	Managed Land	Across Slope	No APZ is required. BAL Zero
East	Managed Land.	Managed Land	Across Slope.	No APZ is required. BAL Zero

Proposed Southern Dwelling

Develop ment Aspect	Hazard/ Vegetation within 140m of Development	Predominant Vegetation Class FDI 80	Average Slope of Land	Recommended Width of Asset Protection Zone table A1.12.6
North	Managed land 55m then Coastal Forest	Forest	Up Slope	20m APZ is required. 55m proposed BAL 12.5
South	Managed land	Managed Land	Down Slope	No APZ is required. BAL Zero.
West	Managed land	Managed Land	Across Slope	No APZ is required. BAL Zero
East	Managed Land.	Managed Land	Across Slope.	No APZ is required. BAL Zero

Level of Construction

Appendix 3, of *Planning for Bushfire Protection 2019* allow the determination of the relevant level of construction in accordance with AS 3959-1999: *Construction of Buildings in Bushfire-Prone Areas*.

For the proposed Dual Occupancy Dwellings, a Maximum of BAL 29 Exposure is permitted. The proposed New Dwellings, which have a BAL 12.5 Exposure, will require Aluminium Screens to Windows, and Gutter Guard to Gutters. The enclosure of all under floor areas is to be achieved by its slab on ground construction method.

Public Road Access

Access is provided to the Site via sealed public road, Cavvanbah Street, which is capable of supporting fully loaded fire fighting vehicles.

Property Access

Property Access will be from Cavvanbah St. This access road complies with the requirements of Property Access Roads of *Planning for Bushfire Protection 2019*.



Electricity Supply

Is already connected via underground transmission lines.

Gas

Reticulated or bottled gas shall be installed and maintained in accordance with AS/NZS 1596-2002: *Storage and Handling of LP Gas* and the requirements of the relevant authorities. If gas cylinders are to be kept close to buildings, the release valve must be directed away from the building and away from any hazardous materials such as firewood, so that it does not act as a catalyst to combustion.

Water Supply

Town Water supply.

Recommendations

Based on my site inspection and assessment, the following recommendations would be required for the two Dwellings.

If any trees are to be located within the envisaged APZs, this is considered acceptable, providing the following conditions are met:

- Vegetation is not to touch or overhang building (canopy vegetation must not be within 2 metres of any building);
- Vegetation is located far enough away from buildings so that it will not ignite the building by direct flame contact or radiant heat emission.
Woodpiles, combustible material storage sheds, large areas/quantities of garden mulch and stacked flammable building materials should not be located within IPA of the building;
- As a minimum, it is recommended that the design comply with the following levels of construction.

The proposed New Dwellings, which have a BAL 12.5 Exposure, will require Aluminium Screens to Windows, and Gutter Guard to Gutters. The enclosure of all under floor areas is to be achieved by its slab on ground construction method.

Reticulated or bottled gas shall be installed and maintained in accordance with AS/NZS 1596-2002: *Storage and Handling of LP Gas* and the requirements of the relevant authorities.

Summary

Viewed in total, the proposed Detached Dual Occupancy Dwellings will in no way prejudice the proper future planning of the area, or the development of adjoining land, as it accords with Bush Fire Regulations, and Zoning Requirements.

Assessment by Chris Lonergan



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

Construction of a Detached Dual Occupancy and its Strata Subdivision on Lot 5 Sec 54 DP 758207 No 26 Cavanbah Street Byron Bay, the landuse achieves a building style, land usage, configuration, layout, and design character, which blends into recent two storey redevelopment in all directions from the property.

The development involves only site works associated with the foundations and tree removal, as well as the pool and driveways.

Thus minimal appreciable change in the character of the site or its surrounding area will result, particularly due to the mostly cleared nature of the development areas.

The proposal will result in the removal of some native and non native vegetation about the southern and northern boundary, and within the road reserve to the northwest, however extensive Compensatory Plantings are proposed.

The proposal will also result in the retention of the Macadamia Nut Tree on the southern boundary.

The compensatory plantings proposed about the boundaries of the site, and the retention of the Macadamia Nut Tree, will broaden the habitat base of the site and visually soften and partly screen the proposed development.

This landscaping also accords with DCP 2014 requirements for the landscaping of Dual Occupancy Development, and also meets Basix Certificate Requirements.

TREES TO BE RETAINED are:

Northern Boundary

- One – Brachychiton acerifolius (Flame Tree)
- One – Frangipani (Plumeria alba)

Southern Boundary

- One – Macadamia tetraphylla (Macadamia Nut)
- One – Frangipani (Plumeria alba)

Western Boundary

- Two – Cupaniopsis anacardioides (Tuckeroo)

TREES TO BE REMOVED

Southern Boundary

- One - Cupaniopsis anacardioides (Tuckeroo)
- Two - Toona australis (Red Cedar)

Reason

Under Dwelling Footprint
Within Driveway

Northern Boundary and North West

- One - Frangipani (Plumeria alba)
- One - Cupaniopsis anacardioides (Tuckeroo)
- One – Archontopoenix cunninghamiana (Bangalow Palm)

Parking
Proximate to Pool & Solar Access.
Proximity to Dwelling

North West Road Reserve

- One – Brachychiton acerifolius (Flame Tree)
- Two – Non Native sp.

Proximity to Driveway
Proximate to Driveway



Similar infill urban development occurs along Cavvanbah St. to the north, east, south, and west, were respectively, two storey medium density development, single dwelling holiday letting, dual occupancy holiday letting, and expanded dwelling B&B development exists.

The soil is of an Acid Sulphate nature, however areas which are to be excavated, will be to a depth of less than 1m for the purposes of foundation placement and servicing. The excavations occur within old clean dual sands, and as such is not of an Acid Sulphate character. As such the Acid Sulphate level will not be intersected on this Class 5 site.

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

3.2 PLANT COMMUNITIES

One plant community exists within the site i.e

Grassland which is generally characterised by a close cover of various grass species and scattered landscape plantings, with some large trees and some palms in the northern, western and southern yard areas comprising

Frangipani (*Plumeria alba*);

Archontophoenix cunninghamiana (Bangalow Palm);

Brachychiton acerifolius (Flame Tree);

Cupaniopsis anacardioides (Tuckeroo);

Toona australis (Red Cedar); and

Macadamia tetraphylla (Macadamia Nut).

Most of these are commonly occurring and in some cases introduced species, with the trees to be removed replaced with compensatory plantings. The Macadamia tree located against the lane way boundary is to be retained.

On this basis the proposed development can occur with minimal impact on the environmental integrity of the area.

3.3 FAUNA

The areas of fringe vegetation within the site provide areas of local habitat significance only. Bird and mammal populations in this area consist of native and introduced species frequenting tree stands.

Although relatively small, the property does support a diversity of common wildlife.

This will be maintained with the vegetation areas within the site to be retained, as well as within the new planting areas proposed.

3.4 EPA Act Sec 5.5 Duty to consider environmental impact

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

As stated, the native species to be removed were previously approved from removal under Consent 10.2015.165.1 dated 22nd Jan 2016 being for the “Removal of trees, removal of existing dwelling, construction of a Dual Occupancy (attached) and use of each dwelling as a Bed and Breakfast accommodation”.



This fresh application seeks similar tree removal, however it proposes more extensive compensatory plantings to meet the new provisions of Part B of DCP 2014. This effects screening, visual softening, and the broadening of the habitat base of the area.

On this basis the proposal results in development that meets the Sec 5.5 requirements of the EPA Act in that it results in the “protection and enhancement of the environment”.

3.5 Biodiversity Conservation Regulation 2017

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

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

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

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

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

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3.5.1 Sec 7.3 of the Biodiversity Conservation Act 2016

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

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

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

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

Endangered or rare tree species

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

Endangered or rare Bat Species

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

Endangered or rare animal Species

Phascogalea cinerea	(Koala)
Potorous tridactylus	(Potoroo)

Threatened species were not identified on this site, and the native plantings that have taken place, and the compensatory plantings proposed, ensures minimisation of impact. In general the habitat contained on site is not one conducive to habitat needs, particularly considering its developed nature and R3 Medium Density Residential Zone location.

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

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

As previously indicated, compensatory plantings are proposed for trees to be removed, and the native species retained and proposed will effect screening, visual softening, and the broadening of the habitat base of the area.

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

- (i) the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and
- (ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and



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

Due to there being compensatory plantings are proposed for trees to be removed, and the native species retained and proposed will effect screening, visual softening, and the broadening of the habitat base of the area, then no habitat areas in the district will become isolated from interconnecting or proximate areas of habitat for a threatened species, population or ecological communities.

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

As detailed, no critical habitat will be affected.

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

The proposed Detached Dual Occupancy and its Strata Subdivision, takes place on mostly cleared land, and compensatory plantings are proposed for trees to be removed, and the native species retained and proposed will effect screening, visual softening, and the broadening of the habitat base of the area

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

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

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

In addition to this, compensatory plantings are proposed for trees to be removed, and the native species retained and proposed will effect screening, visual softening, and the broadening of the habitat base of the area, and the development will not alter the native habitat about the site.

3.6 S.E.P.P. 2020 KOALA HABITAT.

No Koala food trees exist on site.

1. The site is within schedule 1.
2. The site is less than 1 ha.
3. Koala food trees do exist on site.
4. The site is not located in a Koala corridor.
5. No Plan of Management required.

3.7 MEASURES TO PROTECT THE ENVIRONMENT

SITE WORKS

The proposed development of the site to achieve a Detached Dual Occupancy and its Strata Subdivision, will in some way require initial removal of lawn vegetation and some trees, with excavation for foundations and pools, and driveways. This is a possible source of suspended solids, entering the local drainage system.

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Fortunately for this site the lowest points within the property are cleared grassed areas which separate the areas requiring site works from the natural drainage systems. These grassed areas will cause the velocity of surface water to be reduced to a level where most of the suspended soils fall to the floor of the lawn area. Water is then dispersed toward the road reserve drainage system at a reduced velocity and free of suspended solids.

In addition to this berms of straw bails and low mesh sediment fences will be placed between site works and the drainage system to ensure that suspended solids do not enter it.

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

EROSION CONTROL DIAGRAMS

General Notes – Soil and Water Management

1. No disturbed area is to remain denuded longer than 30 days
2. All erosion and siltation control measures are to be placed as the first step in grading
3. All stormwater and sewer lines not in streets are to be mulched and seeded within 15 days after backfill. No more than 150 metres are to be opened at any one time.
4. Electrical power, telephone and gas supply trenches are to be compacted, seeded, and mulched within 15 days after backfill
5. All temporary earthbanks, diversions and sediment control devices are to be machine compacted, seeded and mulched for temporary vegetation cover within 10 days of completion of grading. Straw or hay mulch is required.
6. All fills are to be left with a lip at the top of the slope at the end of each days operation.
7. Cut and fill slopes are to be seeded & mulched within 10 days of completion of grading.
8. Any disturbed areas not paved, sodded or built upon are to be seeded within 15 days with sudan grass or equivalent, and mulched with straw or hay mulch at the rate of 2 tonnes per hectare.
9. Refer to Soil and Water Management for Urban Development NSW Department of Housing, January 1993
- 10a. All sediment control devices as specified in the soil and water management plan at locations marked "EC" and maintained in place till grass is re-established at completion of construction.
- 10b. Sediment traps as shown "ST" to be placed across all pit entrances.

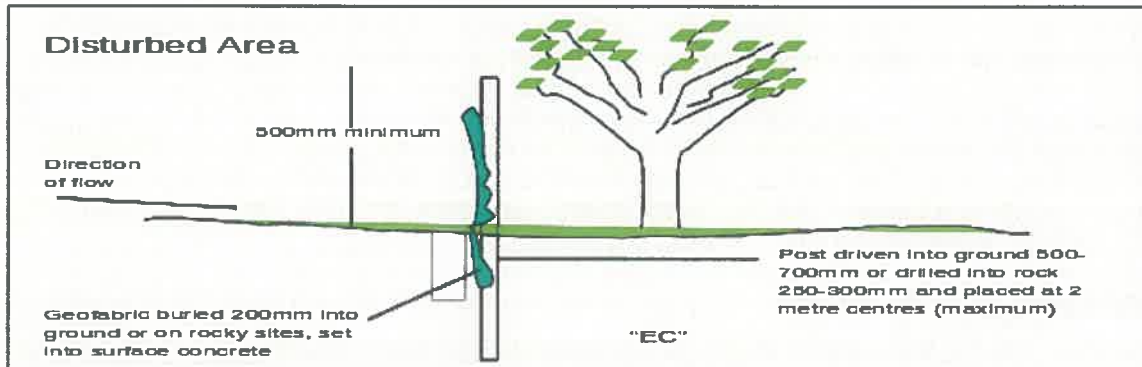


Figure 1: Construction of a geofabric-lined 'silt' fence

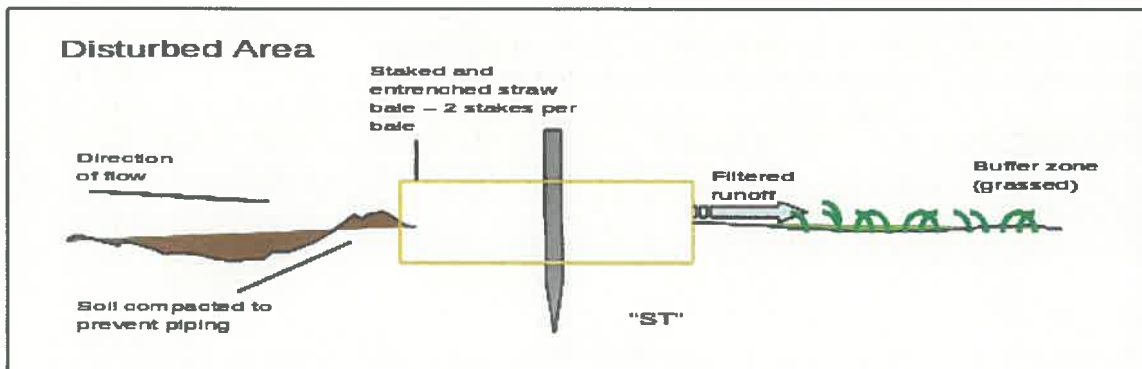


Figure 2: Cross-section of a properly installed straw bale bund

3.8 Impact on the Built Environment

The Detached Dual Occupancy and its Strata Subdivision will not alter the previously approved developed nature of the general area as the tapered design, with its broken elevations and roof lines, mirrors the character of recently approved infill development of most sites adjoining this property.

3.9 Social & Economic Impacts in Locality

The blending development will help strengthen the economic and social base of the Shire generally, and from this it follows that the developments social and economic effect has therefore been a positive one.

3.10 RELATIONSHIP TO ADJOINING DEVELOPMENT

The Construction of a Detached Dual Occupancy and its Strata Subdivision on Lot 5 Sec 54 DP 758207 No 26 Cavanbah Street Byron Bay, with its proposed tree removal and extensive compensatory plantings, maintain the developed character of the area, and accord with Council approved design outcomes for adjoining development.

The proposed development thus remains in keeping with the existing and likely future character of the area.

4 Sec. 4.55(1)(c) SUITABILITY OF THE SITE

The size and shape of the allotment accords with Councils requirements for the construction of a Detached Dual Occupancy and its Strata Subdivision on Lot 5 Sec 54 DP 758207 No 26 Cavanbah Street Byron Bay.

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Viewed in total, the proposed well designed will not alter the developments relationship with the site, and blends into the approved development direction for the area.

The proposed Northern Dwelling is to have a Floor Area of 232.8m².
The proposed Southern Dwelling is to have a Floor Area of 245.87m².
Total Floor Area of 478.67 on this 803.2m² site, achieves a Floor Space Ratio of 0.59 : 1.
This floor area does not exceed the 1.6 : 1 floor space ratio for the site under LEP 2014, within this R3 Medium Density Zoned site.

4.1 ACCESS AND PARKING

The northern dwelling is to achieve access to Cavvanbah Street via a NW driveway servicing two cars.

The southern dwelling is to achieve access to Cavvanbah Lane via a SE driveway servicing two cars.

Here sight distances are more than adequate to optimise traffic safety.

The proposed parking layout is therefore DCP 2014 compliant.

4.2 TRAFFIC

The additional traffic generated by the one additional dwelling is not beyond that planned capacity of the local road system.

As such no traffic conflicts are likely to be created as a result of the design proposed.

4.3 SERVICES

Existing services are adequate, and the one additional dwelling will not exceed the capacity of local services.

5 Sec. 4.55(1)(d) SUBMISSIONS UNDER ACT OR REGULATIONS

Not Applicable.

6 Sec. 4.55(1)(e) PUBLIC INTEREST

Construction of a Detached Dual Occupancy and its Strata Subdivision, accords with the residential development pattern of the area, and the nature of this development, blends with the design outcomes of recent proximate infill developments.

We consider that the Detached Dual Occupancy and its Strata Subdivision will in no way adversely affected the amenity of the area, and a similar development to that previously approved for the site Consent 10.2015.165.1 dated 22nd Jan 2016 being for the *“Removal of trees, removal of existing dwelling, construction of a Dual Occupancy (attached) and use of each dwelling as a Bed and Breakfast accommodation”*.

7. Conclusion

Construction of a Detached Dual Occupancy and its Strata Subdivision on Lot 5 Sec 54 DP 758207 No 26 Cavvanbah Street Byron Bay is considered to be a development which will blend into the scale and form of recent proximate infill developments, it proposes extensive compensatory plantings for the nine (9) trees to be removed, it will not change the character of the area, nor detract from the integrity of distant Heritage Items.

This blending development therefore meets all L.E.P. and D.C.P. Requirements.

The proposed Detached Dual Occupancy and its Strata Subdivision are designed to have minimal impact upon the environment of the area, and environmental impact is to be minimised as a result of the careful design and planning of this development.

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Chris Lonergan – Town Planner – Environmental Assessment : Project Design :
SUMARAH RAMSAY- Urban Planner 89

In general, the compatible proposal will assist in the further broadening and strengthening of the towns social and economic base.

The proposed amended Detached Dual Occupancy and its Strata Subdivision over existing cleared, and accessed land, thus minimising environmental impact. Its location ensures that the visual amenity and cultural history of this area is maintained.

For the foregoing reasons, we respectfully request Council to exercise its discretionary powers to grant our Sec 4.55 Application for *the modification of the Consent by the change of the location of the Pool*, the laundry and the pool pump room in house one (1) (Northern Dwelling) and house 2 (Southern Dwelling) changes are the relocation of the ensuites and the addition of an outdoor shower *to minimise impact and optimise passive solar design, does not change the nature of the "Detached Dual Occupancy" approved by DA 10.2022.574.1 PAN-295775 Demolition of Existing Dwelling and Shed, Tree Removal and Construction of Dual Occupancy (Detached) with Swimming Pool and Strata Subdivision Lot 5 Sec 54 DP 758207 No 26 Cavvanbah St Byron Bay does not change the approved development, and all other aspects of the application remain unaltered, and the same form and outcome is achieved).*

This Sec 4.55 application does not change the approved use, and it achieves the same previously approved development for the site, and no change in the nature of the approved landuse results.

On this basis it achieves the same previously approved development for the site.

We consider that the amendment sought will in no way adversely affected the amenity of the area, and the same development, that has already been approved under *DA 10.2022.574.1 PAN-295775* will still result.

Yours Sincerely

9 May 2024

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Planning
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