

Date: April 2024

The General Manager
Byron Shire Council
PO Box 219
Mullumbimby NSW 2482

Development Application
1271 Lismore Road, Clunes
Lot 2 DP 707865

Dear Sir,

This letter constitutes a Development Application and Statement of Environmental Effects (SEE) report for the following proposal located at 1271 Lismore Road, Clunes, lawfully referred to as Lot 2 of DP 707865, located within the Byron Council LGA.

Use of existing building as pool house.

The Development Application is made out to Byron Shire Council, submitted via the NSW Planning Portal, that includes the following attachments.

Attachment A: Architectural Plan Set

The existing building is located adjacent to the existing swimming pool, on the western side of the main residence building.

The following sections of this SEE report addresses key planning provisions that are applicable to the proposal that demonstrate the proposal is regarded as being suitable for the subject site.

1. INTRODUCTION

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

This proposal seeks to rectify and formalise an existing unapproved building with Byron Shire Council via a development application, to attain development consent for a pool house and deck, which is ancillary to the existing main dwelling and swimming pool, located at 1271 Lismore Road, Clunes.

It is proposed that following a successful development approval, a Building Information Certificate will be prepared and lodged to Byron Shire Council, to seek approval of existing building works on the site.

In relation to the location of the existing unapproved building, it is considered to be in a suitable position on the property, with easy access to the adjacent swimming pool and main house.

The proposal is depicted within the attached architectural plan set by Michael Spiteri.

2. THE SITE AND LOCALITY

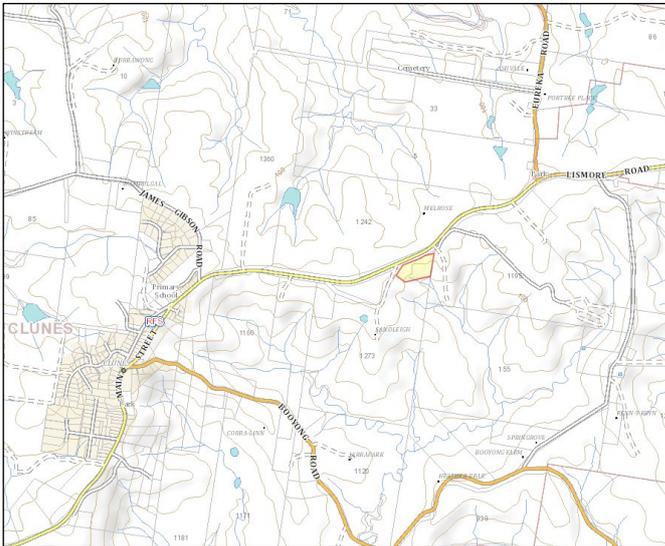
Section 2 - This section of the report introduces the site and describes the context of the site within its immediate and broader locality

2.1 Site description

The property is a small rural landholding located on Lismore Road, approximately 1.7-km east of Clunes and 10-km west of Bangalow.

The property contains an existing main residence, swimming pool, carport and an unapproved building on the western side of the swimming pool that is subject to this development application.

The swimming pool was approved under a Complying Development Certificate in 2005.



Subject site shown on NSW SIX Maps and Nearmap

3. THE PROPOSED DEVELOPMENT

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

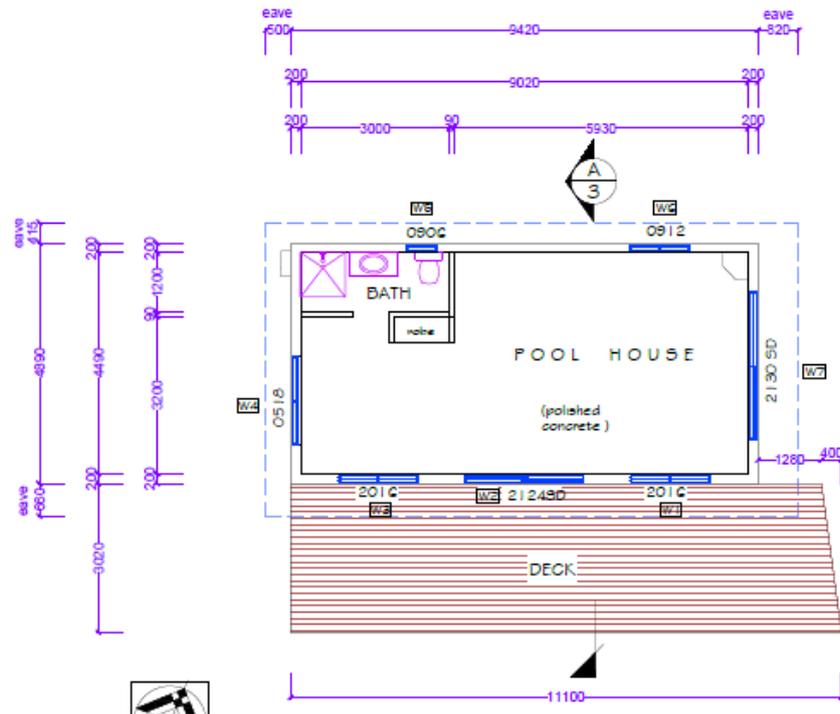
The existing building is located on the western side of the swimming pool, and is setback 20-metres from the main dwelling, as depicted within the below aerial photograph and within the attached plan set (Appendix A).



The proposal seeks to attain development consent for the following components:

- Use of existing building as a pool house
- Use of existing deck

The pool house building is an open plan building with an internal bathroom, constructed out of concrete slab-on-ground with a retaining wall on the northern side of the building. The exterior materials include masonry block-work walls, colorbond roof and guttering, and aluminium framed windows and doors. The attached deck is located on the southern side of the pool house building, that is constructed out of composite decking boards, treated pine joists and a blockwork footing. The deck also contains a continuation of the metal pool fence with a compliant pool gate entrance to the pool house from the swimming pool area.



The following photograph shows the pool house viewed from the existing main residence on the site.



Use of existing pool house and deck

4. STATUTORY PLANNING ASSESSMENT

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

4.1 State Environmental Planning Policies

The proposal is considered to be suitable in terms of all relevant NSW SEPPs:

- The proposal does not impact upon any recognised Koala habitat.
- The site is not located within a coastal management area.
- The proposal does not interfere with any existing essential energy infrastructure.
- A BASIX Certificate is not required for a Class 10a building.
- The pool house does not impact upon agricultural land capability.

4.2 Byron Local Environmental 2014

The subject site contains both Zone RUI and Zone RU2 of the Byron LEP 2014. The use of the existing building does not generate any inconsistencies with the aims and objectives of the BLEP 2014.



The existing building is located within the Zone RU2 – Rural Landscape mapped area.

Zone RU2 Rural Landscape

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.
- To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.

The proposal seeks approval for an ancillary building to the existing swimming pool and main dwelling. It is considered to be part of the rural living use of the property, which is to be utilised by those persons living in the main house.

The proposal is deemed to be suitable in terms of the existing rural landscape character of the locality and will not generate adverse impacts on the scenic landscape values of the locality.

The use of the existing building does not negatively affect agricultural potential of the site.

Clause 4.3 - Height of buildings

(1) *The objectives of this clause are as follows—*

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

The subject site has a maximum building height allowance of 9 metres above natural ground level.

The attached plan set shows that the existing pool house building complies with the maximum building height allowance.



Height of buildings – 9 metres

Clause 6.2 - Earthworks

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

The existing building included minor earthworks at time of construction to establish building foundations and retaining wall, while no further new earthworks are required.

(2) *Development consent is required for earthworks unless the earthworks are exempt development under this Plan or another applicable environmental planning instrument.*

The proposal seeks consent for existing earthworks as part of the pool house building.

(3) *In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*

- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The existing earthworks were conducted in accordance with the matters raised in sub-section (3).

Clause 6.5 - Drinking water catchments

(1) The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.

The subject site is located within the drinking water catchment, the approved use of the pool house building will not generate any adverse impacts on water catchment values, with the existing plumbing connecting to the approved on-site wastewater management system.



Drinking water catchment - yes

Clause 6.6 - Essential services

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

- (a) the supply of water,
Water supply is provided via on-site water tank storages.
- (b) the supply of electricity,
The property has access to the essential energy electricity grid.
- (c) the disposal and management of sewage,
The pool house is already connected to an existing approved on-site wastewater management system.
- (d) stormwater drainage or on-site conservation,
The pool house contains rain water gutters to collect and direct rainwater to storage tanks.
- (e) suitable vehicular access.
The property has existing access connecting to Lismore Road.

4.3 Byron Development Control Plan 2014

Provision	Comment	Complies
Part B – Controls Applying Generally to Development Applications		
B1 Biodiversity	<p>The subject site does not contain any High Environmental Value vegetation and the proposal raises no red-flags with other biodiversity values.</p>  <p>Byron HEV Vegetation</p>	Yes
B3 Services	See Clause 6.6 response.	Yes
B6 Buffers and Land Use Conflict	The pool house building is suitable for the modest sized rural lifestyle property, of which there are not nearby land uses that may generate potential land use conflicts.	Yes
B9 Landscaping	The proposal does not require a landscape plan, and the site contains existing landscaped gardens and plantings.	Yes
Chapter D2: Residential Accommodation and Ancillary Development in Rural Zones		
D2.2.1 Location and Siting of Residential Accommodation and other Buildings	The pool house is suitably located adjacent to the pool and a suitable distance away from the main dwelling to be still associated with the dwelling but also allowing for adequate separation.	Yes
D2.2.2 Setbacks from Boundaries	The pool house building and desk are located a compliant setback distance to the property side boundaries. The pool house is located within 55 metres of the front boundary of Lismore Road which is a classified road, however the building	Yes

Use of existing pool house and deck

Provision	Comment	Complies
	is level with the existing dwelling building line and is considered to not generate adverse impacts.	
D2.2.3 Character and Visual Impact	The existing pool house is of a suitable building design within the rural zone of the Byron Shire, that includes compatible materials, colours and features with the existing main residence. The deck component is considered to be appropriately designed.	Yes

4.4 S4.15 Evaluation

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

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

(1)(a) the provisions of:

- (i) any environmental planning instrument, and*
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
 - (v) (Repealed)*
- that apply to the land to which the development application relates,*

The relevant Environmental Planning instruments are addressed as follows:

- Applicable SEPPs - refer to section 4.1 of this report.
- Local Environmental Plan - refer to section 4.2 of this report.
- Development Control Plan - refer to section 4.3 of this report.
- Bushfire Assessment – refer to section 4.5 of this report.

The attached architectural plan set depicts the existing building on the site to be approved as a pool house building, that is associated with the existing swimming pool and main dwelling on the property. The pool house is to be a class 10a non-habitable building, that contains open floor plan with a small bathroom.

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

- Natural ecosystems

The use of the existing building will not impact any habitat areas.

- Rural character

The existing building and deck are of a suitable bulk, scale and design for the rural lifestyle property.

- Social and economic impacts

The proposal results in an existing unapproved building to be approved under a legal development consent for ongoing use.

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

This report and the accompanying specialist assessments demonstrate that the pool house is suitable for the subject site.

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

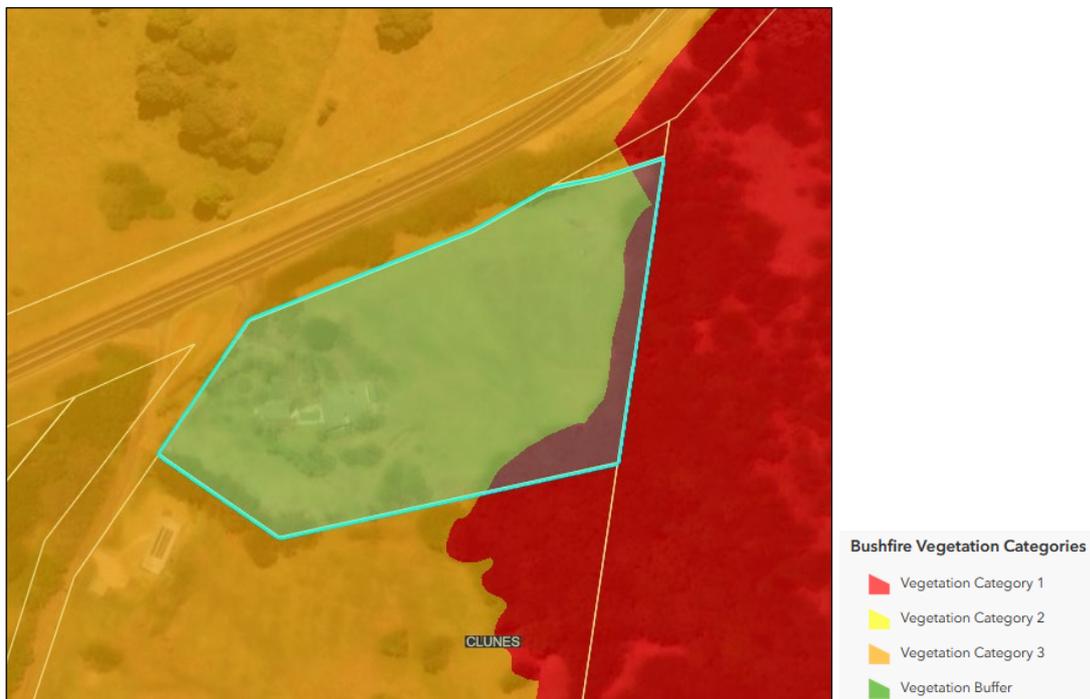
Council may place the application on public exhibition and seek submissions if required.

(e) the public interest.

The proposal rectifies an existing unapproved building, with a suitable planning pathway, that is in the public interest.

4.5 Rural Fires Act 1997

The subject site is mapped as containing bushfire prone land, as depicted in the following map extract.



The pool house is a non-habitable, class 10a building, which is located 20-metres away from the existing primary residence, as shown within Attachment A – Architectural Plan Set.

The NSW Planning for Bushfire Protection guidelines specify that any Class 10a structures which are located greater than 6-metres from a habitable building are deemed to be 'minor development' (pg.53). This development category is considered not to have any influence on bushfire impacts and therefore a bushfire safety authority is not required.

Considering the pool house building is located 20-metres away from the main dwelling and is a non-habitable building, no special bushfire considerations are required for the proposal in terms of BAL rating, asset protection zone, bushfire access or water supply.

5. CONCLUSION

The development application submitted to Council provides adequate information to approve the existing building on the site as an ancillary pool house building and is recommended for approval. Further information will be required for the building information certificate stage.

Please contact our office if you require any further information.

Yours sincerely,

Balanced Systems Planning Consultants

