

Statement of Environmental Effects

To demolish/replace an existing Swimming Pool with the Installation of a New/Replacement Partly Aboveground Concrete Swimming Pool, Safety Fencing and Surrounding Raised Decking (Ancillary Structures)

May 2024

18 Burns Street, Byron Bay NSW 2481 (Lot 1 SP 86360)

approved



Statement of Environmental Effects

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1.0 Introduction

Approved Pty Ltd hereby certifies that this Statement of Environmental Effects (SEE) has been prepared in accordance with the requirement of the Environmental Planning and Assessment Act 1979 and its associated Regulations. It is certified that to the best of our knowledge, the information contained within this report is neither false nor misleading.

Document Details

Revision	A
Prepared By	Anthony Peters Senior Town Planner

This SEE accompanies the Development Application (DA) to Byron Shire Council to replace an existing swimming pool with a replacement new partly aboveground concrete Swimming Pool and Spa, Associated Safety Barrier Fencing/Pool Equipment housing and surrounding raised decking.

Development Application Details

Property Address	Lot 1 SP 86360 18 Burns Street, Byron Bay 2481
Local Government Area	Byron Shire Council
Zone	R2 – Low Density Residential
Existing Development	Dwelling house and swimming pool
Calculations	Lot Area: 445.2m ² Pool/Spa Dimensions: 8.5m long x 3m wide x 1m to 1.6m deep (waterline) Pool Volume: 33,750L

The statement is intended to provide further details, where necessary, on aspects covered in the drawings as well as provide additional information where required. The information following is provided to detail the merit of the proposed development in relation to the provisions set out in both the Byron Local Environmental Plan 2014 and Byron Shire Development Control Plan 2014. The DA and SEE have been prepared on behalf of the applicant and addresses the matters referred to in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the matters required to be considered by the consent authority. The purpose of this Statement is to:

- Describe the existing environment to which the DA relates and the character of the surrounding area.
- Describe the proposed development.
- Outline the statutory planning framework within which the DA is assessed and determined; and
- Assess the proposed development in considering the relevant heads of consideration.

2.0 Site Location and Description

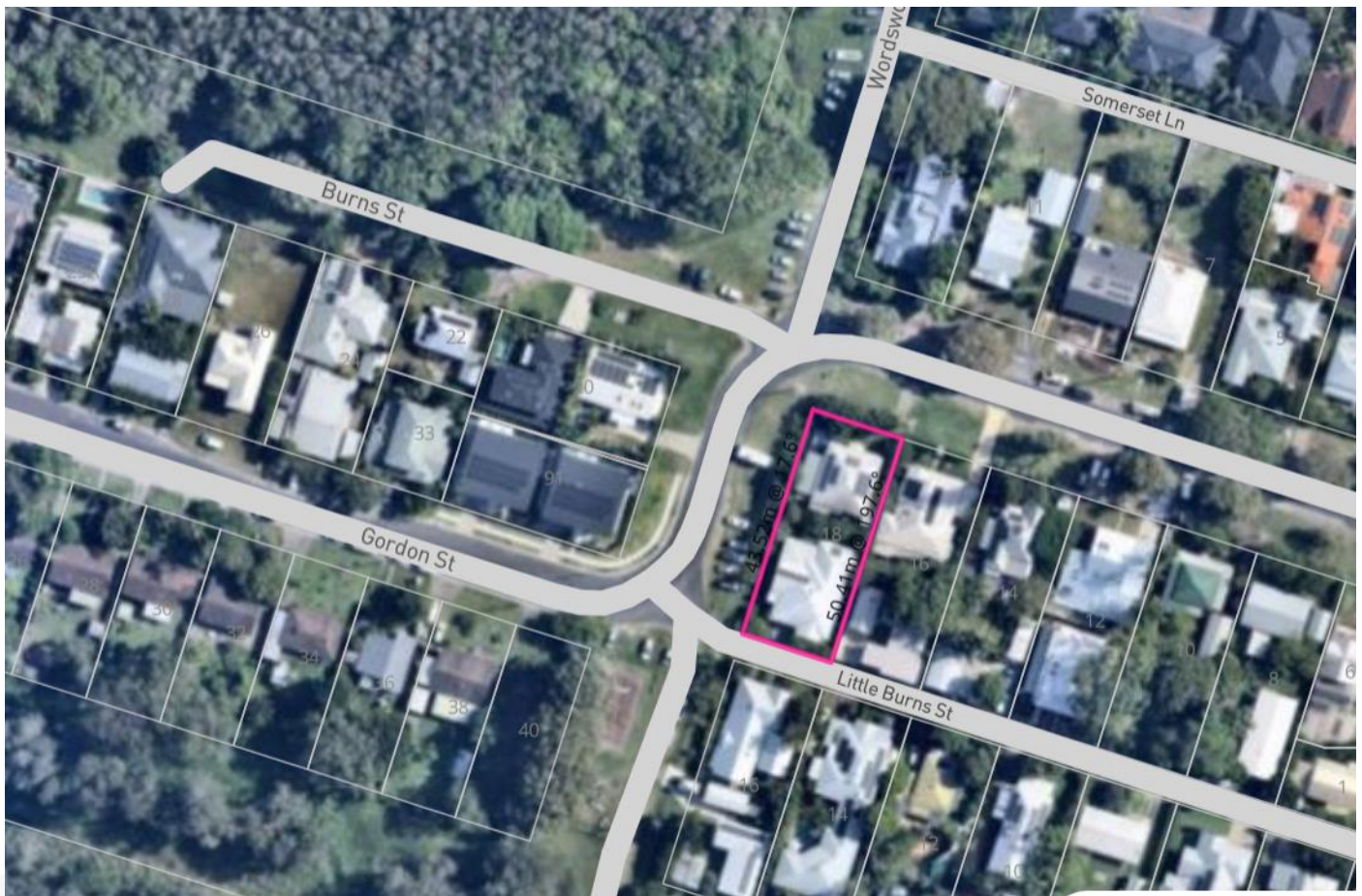


Figure 1: Aerial view, showing subject Lot outlined in red (Source: Nearmap).

The subject site (the site) is located on the southern side of Burn Street and east of Gordon Street (Cnr Burns and Gordon Street). The locality consists of similar residential lot properties, displaying the pattern created as a result of the original surrounding subdivision.

Development immediately surrounding the site is primarily low rise built forms such as dwelling houses and dual occupancies displaying similar ancillary structures. This pattern can be observed in Figure 1.

The allotment is regular in shape and orientated in an approximate north to south direction. Lot 1 SP 86360 displays a 20.12 metre frontage to Burns Street and 22.13 metre frontage to Gordon Street (secondary frontage) with a site area of 445.2m² and no easements. The sites topography has a slight slope from the north down to the south. Direct vehicular access/egress is available from Burns Street.

The site currently contains a dwelling house, swimming pool and associated decking. Vegetation is generally limited to its perimeter and road reservations, with maintained hedges, grassed/landscaped areas predominately within the property.

No common property is relevant to the proposal.

2.1 Proposed Development

The applicant seeks development consent for the replacement/demolition of an existing swimming pool (north-south orientated) located in the north-western corner of the site with the installation/erection of a new partly aboveground concrete swimming pool/spa on the same axis and generally within the same footprint. The intent of the proposal is to reinstate/update additional amenities/recreation for existing residents.

Specifically, the proposal includes the following details:

- Installation of a combined concrete swimming pool/spa, 600mm above the existing ground level, with surrounding perimeter safety barrier fencing to comply with AS 1926.1-2012 and expanded raised timber decking surround. The swimming pool/spa capacity will be of 33,750L. The proposed pool/spa waterline measures 8.5m x 3m (with a water depth of 900mm to 1.5m for the pool and 900mm for the spa) and 300mm wide perimeter coping. The pool will remain partly forward of the existing building line (similar to the existing pool footprint), with a front northern boundary setback of approximately 3.030m to the outside edge of the pool coping or 2.130 to the decking edge/safety fencing. The secondary western frontage side setback is 1.8m to the outside edge of the pool coping or 900mm to the decking edge western rear boundary (decking) and eastern side setback of 14.470m and 37.7m to the southern rear boundary (of the total site) or to the edge of the existing undercover decking.
- A BASIX Certificate is not required as the volume is less than 40,000L.
- The pools/spas mechanical/filtration equipment will be maintained within the existing approved pump/equipment enclosure. The swimming pool/spa will also be surrounded by a slightly enlarged raised timber decking (similar to that existing).
- The development will not result in additional bulk from that existing when viewed from the street as it is screened from view by fencing, existing improvements and landscaping.
- The swimming pool/spa is a combined concrete shell construction.
- The safety fencing will predominately be non-obtrusive glass panels.
- Minimal earthworks are proposed due to the existing location/footprint of the existing pool and the proposed pool being partly aboveground (by 600mm) similar to the raised decking finished levels.

It is important to note that the swimming pool/spa simply replaces an approved swimming pool in the same location of the site (albeit slightly larger). This will make the area more useable and suitable for residents' recreation.

Overall, the development is considered to increase residential amenity for the occupants, and this ancillary structure is not uncommon in such settings. It is requested that the Structural Engineering Detail for the pool/decking be provided at Construction Certificate stage.

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3.0 Statutory Requirements

This section deals with the proposal's consistency with the various statutory and non-statutory provisions. It also addresses the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

3.1 Commonwealth Legislation - Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environmental Protection and Biodiversity Conservation Act (EPBC) 1999, in conjunction with the Commonwealth Environmental Protection and Biodiversity Conservation Regulations 2000, provide the basis for national environmental protection and conservation.

The subject site is not situated on or near an area of environmental significance and does not contain any national environmental significance items.

3.2 Other Acts

Consideration was afforded to other legislation, including legislation concerning whether the proposal is integrated development. Integrated development is not triggered in this case.

3.3 State Environmental Planning Policies (SEPP)

The following State Environmental Planning Policies are considered applicable to the land and relevant to the proposal such as to warrant consideration:

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (CODES SEPP) contains provisions for Exempt Development, development involving "minimal impact" which does not require consent, and Complying Development, development which meets pre-determined standards and can be processed through a streamlined consent pathway.

The Section 10.7 Planning Certificate No. 20225895 dated 29/11/2023 indicates in Section 4 that the Housing Code may apply in this case. A Complying Development Certificate cannot be relied on in this case for the works as proposed.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4:

Desktop search revealed the area surrounding the site has been historically used for residential purposes.

The site is not identified as potentially contaminated in Council's inventory and its previous and present use would significantly reduce any likelihood of contamination.

State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 (SB SEPP) came into force on 1 October 2023 and replaced the previous energy efficient Policy - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The swimming pool/spa is under a capacity of 40,000L (i.e. 33,750L) and therefore **does not** require BASIX Certification in relation to energy efficiency design as per *Schedule 2 Standards for alterations of BASIX buildings and BASIX swimming pools and spas* of this Policy. Therefore, a BASIX Certificate is not required to be lodged with the Development Application in this case.

4.0 Local Environmental Plans (LEP)

4.1 Byron Local Environmental Plan 2014 (BLEP 2014)

Consideration has been given with regards to the outcomes and prescriptive requirements of the Byron Local Environmental Plan 2014. The following Clauses are considered applicable to the proposal:

Part 2 Permitted or Prohibited Development

The site is zoned R2 – Low Density Residential. The proposed development is defined as a ‘*Dwelling house*’ (which includes ancillary development such as swimming pools) that forms part of a dual occupancy (detached) and is permissible with consent in the R2 zone.

The objectives of the R2 zone are outlined below:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow for educational, recreational, community and religious activities that support the wellbeing of the community.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

The proposal is considered consistent with the objectives of the R2 zone in that development is appropriate in relation to the capability and suitability of the land, to meet the day to day needs of residents, without hindering the amenity of the locality (particularly as it is simply replacing an existing pool in the same location of the site). The proposal is of scale and use that is not uncommon for a dwelling house and is unlikely to detract from the amenity and character of the area.

Clause 2.7 Demolition requires development consent

The consent for the demolition/removal of the existing swimming pool is also proposed as part of this application. A Waste Management Plan is attached.

Part 4 Principal Development Standards

Clause 4.3 Height of Buildings

The site is prescribed a maximum allowable building height of 8.5m. The swimming pool will not exceed heights of existing improvements and is well below this limit.

Clause 4.4 Floor Space Ratio

The site is prescribed a maximum allowable floor space ratio of 0.5:1. The swimming pool does not add to any gross floor area calculations in any event.

Part 5 Miscellaneous Provisions

Clause 5.10 Heritage conservation

The site is contained within the Burns Street, Byron Bay Conservation Area – Local Significance General (C002).

An AHIMS report has been obtained and indicates there were no sites of significance identified (attached).

It is important to reiterate that the proposed development simply seeks to replace an existing approved pool with a new pool in the same disturbed footprint and therefore Council has already considered any potential impact and approved multiple swimming pools in this conservation area. The possibility of unearthing heritage items is relatively low, and no further investigation/reports are warranted in this regard.

Clause 5.21 Flood planning

Although the site is within a flood planning area, a swimming pool and raised deck are not structures that are impacted by floodwaters or of a scale that will redirect floodwaters. Minimum floor levels are not applicable.

Part 6 Additional Local Provisions

Clause 6.1 Acid Sulfate Soils

The site is classed as containing class 3 acid sulfate soils (i.e. where works are more than 1m below the natural ground surface and works by which the water table is likely to be lowered by more than 1m). The proposed excavation for the new pool is to be 1m deep (at the northern deep end only and at the most elevated portion of the site), with 600mm aboveground.

Merit consideration is therefore sought given that the works are simply to replace the existing excavated pool area where no acid sulfate soils were previously unearthed, the deepest point is proposed at 1m (only for a small portion of the pool) and the water table is not lowered by more than 1m.

An Acid Sulfate Soils management report is not considered warranted on this basis and any mitigation measures can be suitably conditioned if required.

Clause 6.2 Earthworks

Only minor earthworks associated with the installation of the swimming pool and decking foundations are proposed as it is only partially within the ground and slightly larger than the existing pool/decking. No significant excavation is therefore required to facilitate the development.

Having regard for subclause (3), it is considered that any proposed groundworks are acceptable and warrant consent as this development is unlikely to have detrimental impact on the environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Conditions of consent can be included to address potential sedimentation and erosion control issues.

Any excavated material that is proposed to be removed from the site (unlikely due to minimal quantities that can be reused/spread on-site) will be managed in accordance with Council Guidelines and the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.

Clause 6.6 Essential services

All essential services are currently available/connected to the existing pool and can be utilised by the proposed pool/spa.

5.0 Development Control Plan (DCP)

DCP's provide Council's detailed planning and design guidelines to support the LEP. Consideration has been given with regards to the outcomes and prescriptive requirements of the Byron Shire Development Control Plan 2014. The following Chapters are considered applicable to the proposal.

Byron Shire Development Control Plan 2014		
Element	Control	Compliance
Chapter B14 – Excavation and Fill		
B14.2 Excavation and Fill in all Zones	Where earthworks are proposed for swimming pools, the earthworks to have a maximum depth of no more than 2 metres. Where swimming pools are partially benched into the side of a hill to create an infinity edge or similar, the pool to extend no more than 1 metre out of the ground. For details see Figures B14.3 and B14.4	Complies. Earthworks are less than 2m in depth and the pool does not extend more than 1m out of the ground.
Chapter D1: Residential Accommodation in Urban, Village and Special Purposes Zones		
D1.2.2 (5) Minimum Setbacks for Swimming Pools and Spas	<p>A. The outer edge of the pool concourse or coping must be set back a minimum of one (1) metre from the side or rear boundaries, with the water line being a minimum of 1.5m from those boundaries.</p> <p>B. Pools should not be located within the street frontage setback, except on sites where private open spaces can be accommodated only in this location or other site attributes support this outcome.</p> <p>C. Pool pumps shall be located as far back from a side or rear boundary as practical and if closer than 3m from it shall be acoustically shielded.</p>	<p>Complies.</p> <p>The pool coping is greater than 1m from the side and rear boundaries. The pool waterline is also greater than 1.5m from the side and rear boundaries.</p> <p>Although the pool is partly located within the street frontage setback, the site is restrictive and private open spaces can only be located to the side or front. Council has previously approved this footprint.</p> <p>The existing pool pump enclosure will be utilised in the previously approved positioning.</p>
D1.2.3 Privacy	Decks, terraces, balconies and other external living areas within 4m from a side or rear boundary and with a floor level greater than 1.0m above ground level (existing) will require a privacy screen unless it can be demonstrated that there will be	<p>Complies.</p> <p>The decking is less than 1m above ground level (600mm). Existing boundary fencing and landscaping will continue to screen the deck and pool area from the street and neighbouring properties.</p>

negligible overlooking and/or privacy impacts

D1.2.7 Fences

Front Fences shall not exceed 1.2m high.

Side fences shall not exceed 1.2m within the building line setback and 1.8m for the remainder.

Rear fences shall not exceed 1.8m. Where the rear fence is the primary frontage front fence height provisions may apply.

Any front fence higher than 1.2 metres must be:

located not less than 50cm inside the front boundary with the area in front of the fence to be landscaped; or

articulated with recessed sections of a minimum 0.9 x 0.9 metres at a maximum interval of 5 metres to allow planting of vegetation to reduce the impact of the fence.

Complies/Merit.

Only 1.2m high non-obtrusive glass pool safety fencing is proposed around the perimeter of the pool/decking. This will be an improvement to the existing safety fencing around the existing pool forward of the building line.

Existing side boundary fencing closest to the pool will be retained.

6.0 Environmental Effects

The proposed development has been evaluated with regard to the matters for consideration of section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) that have not been addressed elsewhere within this statement.

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

Consideration has been given to relevant Environmental Planning Instruments (EPI) above. The proposed development is not inconsistent with any EPI.

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

We are not aware of any Draft Instruments relating to the site or the proposed development.

The Provisions of any Development Control Plan – 4.15(1)(a)(iii)

Consideration has been given to the provisions of the relevant Development Control Plan. The proposed development is not inconsistent with the objectives or controls within any DCP.

The Provisions of any Planning Agreement – 4.15(1)(a) (iii a)

Not applicable to this application.

The Provisions of the Regulations – 4.15(1)(a)(iv)

Not applicable to this application

Likely Impacts

Context and Setting	The proposal is appropriate for its location and with respect to adjoining land uses. The swimming pool's location is predominately shielded by existing improvements and landscaping and simply replaces a previously approved swimming pool in the same location.
Access, Transport and Traffic	No additional traffic is generated by the proposed development (other than during construction).
Public Domain	The proposal will not result in any adverse impacts to the public domain.
Utilities	The proposal will be connected to the mains power.
Heritage	Acceptable – refer to Clause 5.10 of the LEP.

Other Land Resources	The proposed development would not alienate other uses within the site or on neighbouring sites and would limit the demands on other lands.
Water Quality	Reticulated water is available. Ample opportunity to discharge overflow/backwash to existing stormwater drainage on-site without affecting neighbours/environment.
Soils	Minimal impact on soil profile due to existing excavation and partly aboveground construction/placement. This will be considered in engineering design.
Air and Microclimate	The proposal is expected to have a negligible impact on the existing air quality and microclimate.
Ecological	There are negligible ecological impacts anticipated as the swimming pool/decking footprint is proposed in a cleared part of the site that already contains a swimming pool/decking.
Waste	Waste generated will be handled through existing waste collection and recycling services that are presently available, with additional services used on occasion during demolition and construction.
Energy	The proposed development incorporates applicable energy efficient design features.
Noise and Vibration	The proposal would have negligible impact and will be consistent with that existing (pool housing enclosure). Noise and vibration during construction to be subject to Council conditions.
Natural Hazards	The subject site is identified as being affected by bush fire and within a flood planning area; however, the swimming pool is not a structure that warrants concern in this regard and could assist as a water source in the event of a fire and is not affected by floodwaters.
Technological Hazards	None exist in respect to this type of development.
Safety, Security and Crime Prevention	The development is designed and located to ensure safety and security would be maintained.
Social Impact in Locality	The proposal does not introduce a type of development or scale of development that would result in an adverse impact.
Economic Impact in Locality	No adverse economic impact expected, and the proposal would not impact future economic viability of the locality.
Site Design and Internal Design	Commensurate to existing built form and context of surrounding locality.
Construction	To Council and BCA requirements. It is requested that structural engineering detail be provided prior to the release of the Construction Certificate.
Cumulative Impacts	None are likely to result from this scale of development.

Ecologically Sustainable Development

Clause 193 of the Environmental Planning and Assessment Regulation 2021 note that Ecologically Sustainable Development (ESD) requires the effective integration of economic and environmental considerations in decision-making processes. The proposed development is able to comply with the ESD objectives for the site.

Suitability of the Site for Development– 4.15(1)(c)

The subject site is considered suitable for the proposed development in this location. The SEE has demonstrated in detail that the site is suitable for the proposed development and the proposed works ancillary to the existing dwelling house has the following merits:

- The proposed development is permissible development and will be consistent with the relevant zone objectives.
- The works are well proportioned and will fit in with the surrounding built form, appropriate for the site.
- Principal planning controls are complied with.
- The site will maintain useable areas for landscaping and private open space.
- Efficient and well-considered design/location solutions are proposed (having regard for site conditions).
- The amenity of neighbouring properties is not adversely affected by the proposal due to the location of the swimming pool consistent with the existing swimming pool. In particular solar access to the pool area is maintained and privacy/views are not unreasonably impacted over and above that existing; and
- There are no prohibitive constraints posed by the site or those adjacent.

Submissions–4.15 (1)(d)

The proposal may be notified in accordance with the requirements of Council, providing opportunity for the public to comment on the development.

All reasonable concerns raised in any submissions will be considered if deemed substantiated by Council.

Public Interest–4.15(e)

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

7.0 Conclusion

The application for development seeks assessment and consent under the provisions of section 4.15 of the Environmental Planning and Assessment Act 1979. The development is a permissible use of the land under the Byron Local Environmental Plan 2014 and displays compliance with the objectives and guideline controls of the Byron Shire Development Control Plan 2014. It is therefore submitted to Council for favourable consideration, subject to conditions of consent.