



Environmental Impact Statement
The Kollektive Kendall Pty Ltd
Alterations and additions to
existing multi-dwelling housing
development
at Lots 1 - 13 SP96105
Kendall Street, Byron Bay

PLANNERS NORTH, May 2024

Compliance and Usage Statement

Preparation

This Environmental Impact Statement has been prepared and submitted under Part 4 of the *Environmental Planning and Assessment Act 1979* by:

Name: Stephen Connelly

Qualifications:

- A. Dip Town and Country Planning, Mitchell CAE 1982;
- Master of Environmental and Business Management, University of Newcastle 2009;
- Registered Planner (Fellow) #9037, Planning Institute of Australia;
- General Certified Environmental Practitioner (#1817); and
- Impact Assessment Specialist (#IA11103) Certified Environmental Practitioner Scheme

Name: Kate Singleton

Qualifications:

- Bachelor of Town Planning University of NSW;
- Registered Planner, Planning Institute of Australia (#9422).

Company: PLANNERS NORTH

Address: 6 Porter Street, Byron Bay, Bundjalung Country NSW, 2481

Postal Address: P.O. Box 538, Lennox Head, Bundjalung Country NSW 2478

In respect of: Alterations and additions to existing multi dwelling housing development.

Application

Proponent: The Kollektive Kendall Pty Ltd

Address: c/ - PLANNERS NORTH

P.O. Box 538, Lennox Head, Bundjalung Country NSW 2478

Land to be developed: Lots 1-13, SP96105

Proposed development: Alterations and additions to existing multi dwelling housing development.

Certificate

We certify that we have prepared the content of this Development Application and to the best of my knowledge:

it is in accordance with the Act and Regulations, and

it is true in all material particulars and does not, by its presentation or omission of information, materially mislead.

Notice

The plans to this document were prepared for the exclusive use of the proponent and are not to be used for any other purpose or by any other person or corporation. PLANNERS NORTH accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for purposes other than the proposed development.

Plans accompanying this document may not be reproduced, stored or transmitted in any form unless this note is included.

PLANNERS NORTH declares that it does not have, nor expects to have, a beneficial interest in the subject project. Nor does it have any reportable political donations within the meaning of Section 10.4 of the Act to declare.

No extract of text from this document may be reproduced, stored or transmitted in any form without the prior consent of PLANNERS NORTH.



Kate Singleton RPIA
PARTNERSHIP PRINCIPAL



Stephen Connelly RPIA (Fellow), CEnvP-IA
PARTNERSHIP PRINCIPAL

Ref: **K_1664.4612**
Date: **May 2024**



ABN 56 291 496 553
6 Porter Street,
Byron Bay NSW 2481
T: 1300 66 00 87



Executive Summary

Purpose of this Report

The purpose of this report is to provide an Environmental Impact Statement in relation to proposed alterations and additions to existing multi dwelling housing development at 1 Kendall Street, Byron Bay (Lots 1-13 SP96105).

Overview of the Project

The project seeks consent for alterations and additions to the existing multi dwelling housing, which presently contains 12 dwellings. The proposal provides for an additional 8 dwellings and associated car parking.

The Site

The subject site is presently identified as Lots 1-13 SP96105, 1 Kendall Street, Byron Bay. The site presently contains a two storey elevated building containing 12 dwellings with ground floor parking and entry, and 1 bedroom and living areas above.

Planning Context

The subject site, including the areas in which the existing building is located, is partly identified as Coastal Wetlands in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021. Following a review of the application of the "EZones" and the site's ecological attributes, the current zoning was applied to the site with the R2 Low Density Residential zone applied to the unconstrained area in which the development is proposed. The review of the ecological constraints is yet to be reflected in updated Coastal Wetlands mapping and the proposal therefore comprises Designated Development in accordance with the provisions of Section 4.10 of the Environmental Planning and Assessment Act 1979.

Environmental Impacts and Mitigation Measures

Potential environmental impacts of the proposal primarily relate to bushfire, ecological and engineering issues including stormwater and traffic. The subject EIS provides an assessment in relation to the Planning Secretaries Environmental Assessment Requirements (SEARs). It is anticipated that the recommendations contained in the specialist technical reports and conditions of development consent will be able to adequately manage and mitigate the potential impacts of the proposed development.

The technical studies undertaken by specialist consultants to assess the potential impacts of the proposed development include:

- **Traffic, Stormwater and Flooding:** *SDS Civil Enterprises Pty Ltd*
- **Flora and Fauna:** *Biodiversity Assessments and Solutions Pty Ltd Pty Ltd*
- **Potential Impacts on Existing Vegetation:** *Northern Tree Care Services*
- **Bushfire Hazard:** *Bushfire Certifiers*
- **Acid Sulfate Soils:** *ENV Solutions Pty Ltd*
- **BASIX Certificate** *Building Sustainability Assessments*

In relation to consultation, the proponents engaged with the Bundjalung of Byron Bay Corporation (Arakwal), Tweed Byron Local Aboriginal Land Council (TBLALC), Byron Shire Council, the Department of Planning, Housing & Infrastructure, Biodiversity and

Conservation Division, NSW Department of Primary Industries – Fisheries, and the Rural Fire Service. Immediately adjoining residents were also letterboxed. The outcome of the consultation is addressed in Section 6 of this report.

Conclusion and Justification

The assessment undertaken demonstrates that the proposed alterations and additions to the existing multi dwelling housing development will not result in significant adverse social, economic or environmental impacts. The proposed development will provide an increase in housing diversity within close proximity to existing services and facilities.

TABLE OF CONTENTS

1.	Introduction	1
1.1.	Background to the Development.....	1
1.2.	Overview of Proposed Development	3
1.3.	Approval History	3
1.4.	Project Team & Specialist Technical Advice.....	4
2.	The Site and its Context	5
2.1.	Cadastral Description.....	5
2.2.	Site Context	5
2.3.	Site Analysis.....	5
3.	Project Justification and Alternatives	8
3.1.	Objectives of the Development.....	8
3.2.	Analysis of Alternatives	8
4.	The Development Proposal	9
4.1.	Site Planning Objectives.....	9
4.2.	Description of the Proposal.....	9
4.3.	Ancillary Approvals	10
4.4.	Services and Utilities.....	10
5.	Statutory and Policy Planning	12
5.1.	Statutory Considerations.....	12
5.2.	Contribution Plans.....	48
5.3.	Local Policy Controls.....	48
5.4.	Coastal Management Act 2016	48
6.	Consultation	50
6.1.	Matters Raised by Council	50
6.2.	Matters Raised by Agencies.....	50
6.3.	Consultation with the Local Community.....	50
7.	Environmental Assessment	51
7.1.	Context and Setting.....	51
7.2.	Biodiversity / Flora / Fauna	51
7.3.	Soils	52
7.4.	Waste.....	52
7.5.	Energy	53
7.6.	Noise & Vibration.....	53
7.7.	Visual Environment.....	53
7.8.	Services / Water Supply / Sewerage / Electricity	53
7.9.	Access.....	53
7.10.	Stormwater Drainage.....	54
7.11.	Hazards	54
7.12.	Social and Economic Considerations	54
7.13.	Cultural Considerations	55
7.14.	Amenity of the Area.....	55
7.15.	Construction Considerations.....	55
7.16.	Cumulative Impacts.....	55
8.	Mitigation Measures	56
9.	Justification & Feasibility of the Proposal	61
9.1.	Social and Economic.....	61
9.2.	Biophysical.....	61
9.3.	Ecologically Sustainable Development.....	61
10.	Conclusion	62

APPENDICES

A	Secretary's Environmental Assessment Requirements	63
B	Architectural Plans	68
C	Ecological Assessment	69
D	Bushfire Report	70
E	Arborist Report	71
F	BASIX Certificate	72
G	Civil, Traffic and Flooding Report	73
H	Acid Sulfate Soils Management Plan	74
I	Waste Minimisation and Management	75
J	Estimated Cost of Proposal	76
K	Consultation Responses	77



1. Introduction

This section of the report identifies the nature of client instructions, relevant background information, and the structure of the report.

This Environmental Impact Statement (EIS) accompanies a Development Application to Byron Shire Council pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in support of an application for proposed alterations and additions to existing multi dwelling housing.

The EIS has been prepared by PLANNERS NORTH, for the proponent, The Kollektive Kendall Pty Ltd and is based on information provided by the owner and supporting technical documents provided by the expert consultant team.

This EIS has been prepared in accordance with the requirements of Part 4 of the EP&A Act, and the requirements of the Secretary of the Department of Planning and Environment for the preparation of the EIS, which are included at **Appendix A**. This EIS should be read in conjunction with the supporting information and plans appended to and accompanying this report.

The EIS is structured as follows:

Section 1: Introduction, overview of the project, background, project team and approvals process.

Section 2: Site analysis, overview of existing site conditions, and summary of opportunities and constraints.

Section 3: Consideration of alternatives and reasons for carrying out the project

Section 4: The strategic and statutory planning framework applying to the site.

Section 5: A detailed description of the proposed development.

Section 6: Summary of the key issues from Consultation.

Section 7: Environmental assessment of the Project.

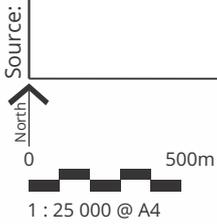
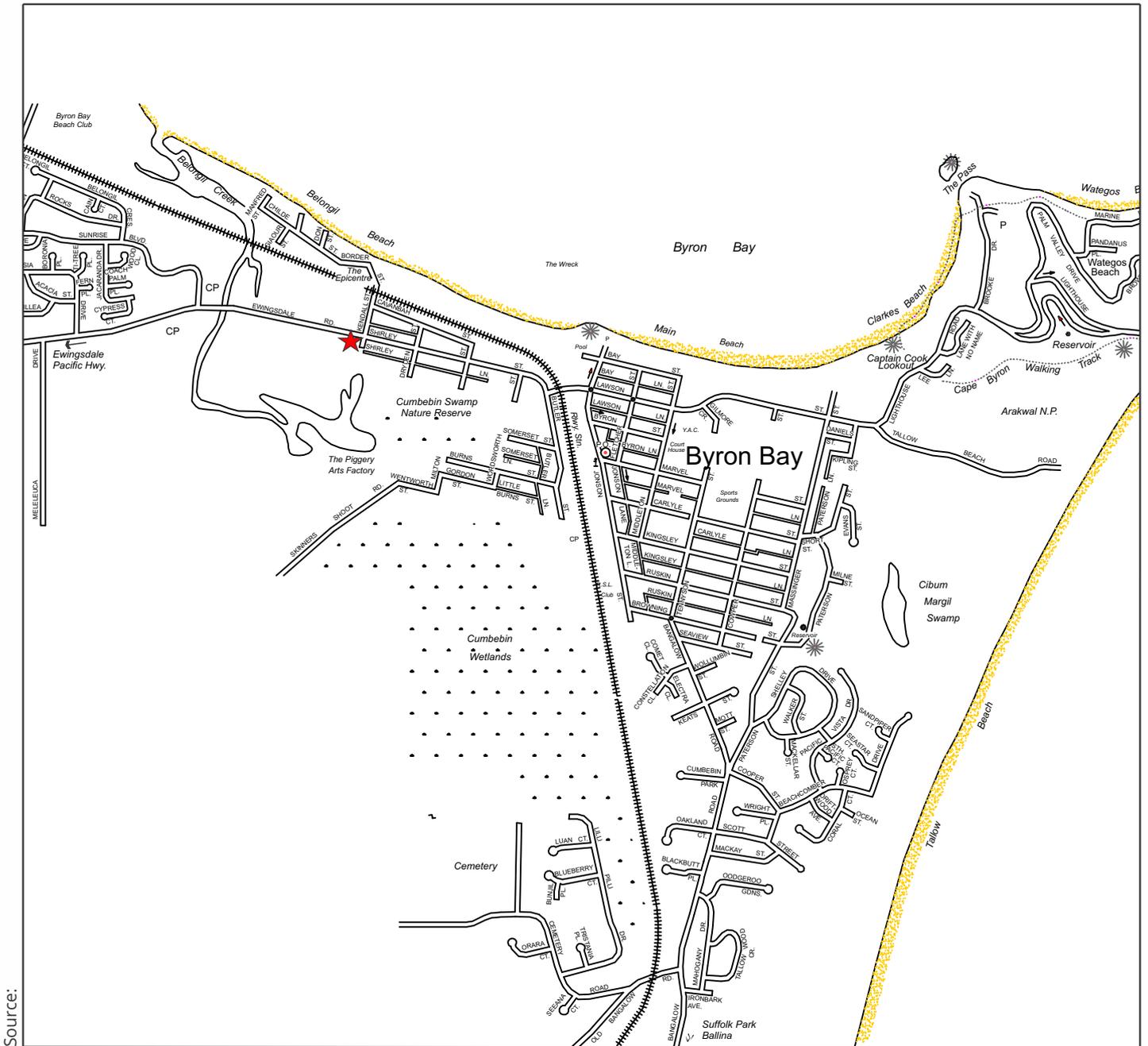
Section 8: Proposed Mitigation Measures.

Section 9: Project Justification

Section 10: Conclusion

1.1. Background to the Development

PLANNERS NORTH has been engaged by The Kollektive Kendall Pty Ltd, the owner of the abovementioned land, to provide Town Planning advice with respect to the preparation and lodgement of an Environmental Impact Statement ("EIS") and Development Application with Byron Shire Council in regard to land described as Lots 1-13 SP96105. **Plan 1.1** is a locality plan related to the subject land.



Legend

★ Subject site

**Plan 1.1
LOCALITY
PLAN**

1.2. Overview of Proposed Development

The Development Consent is sought to undertake alterations and additions to the existing multi dwelling housing development. The proposal provides for the construction of an additional 8 dwellings and associated car parking. Architectural plans illustrating the alterations and additions proposed are contained at **Appendix B**. The estimated cost of the alterations and additions proposed is \$2,476,100 (see cost estimate at **Appendix J**).



The existing development

1.3. Approval History

Development Application 10.2011.338.1 for double storey dwelling house was approved by Council on 15/2/2012.

Development Application 10.2012.273.1 for placement and use of temporary structures as a refreshment stop during the Splendour in the Grass Festival was approved by Council on 11/7/2012.

Development Application 10.2014.632.1 for four attached dwellings was approved by Council on 12/1/2015.

Development Application 10.2015.398.1 for multi dwelling housing comprising 12 dwellings was approved by Council on 19/10/2015.

Development Application Modification 10.2015.398.2 for S96 Modifications to Condition No 3 Provision of Affordable Housing was approved by Council on 8/12/2015.

Development Application Modification 10.2015.398.3 for Amend Condition No.10 Bushfire Design and Construction was approved by Council on 6/1/2016.

Development Application Modification 10.2015.398.4 for S96 Modifications to the building design including new mezzanine level, ground floor store room and modified roof design was approved by Council on 1/4/2016.

Development Application Modification 10.2015.398.5 for S96 to Add Second Driveway Crossover was approved by Council on 31/8/2016.

Construction Certificate 11.2015.398.1 for Construction of Multi Dwelling housing comprising of 12 Dwelling was approved by Council on 1/8/2016.

Development Application Modification 10.2015.398.6 for S96 To Stage Development Stage 1: Construct Twelve (12) Dwellings Stage 2: Construct Second Driveway to Ewingsdale Road was approved by Council on 2/2/2017.

Development Application Modification 10.2015.398.7 for S96 For Service Driveway to Kendall Street as Stage 2 was approved by Council on 16/5/2017.

Construction Certificate 11.2015.398.2 for Modification of Construction of Multi dwelling Housing Comprising of Twelve (12) Dwellings - Amendment to Ceiling Height in Dining Rooms was approved by Council on 13/4/2017.

Occupation Certificate 13.2015.398.1 for Multi dwelling housing comprising 12 dwellings was approved by Council on 13/4/2017.

Occupation Certificate 13.2015.398.2 for Multi dwelling housing comprising 12 dwellings was approved by Council on 5/5/2017.

Development Application 10.2017.208.1 for Home Industry Building was approved by Council on 25/8/2017.

Complying Development Certificate 16.2017.44.1 for New Subdivision – Strata was approved by Council on 23/6/2017.

Development Application Modification 10.2015.398.8 for S96 to Add a Toilet and Storage Area was approved by Council on 1/2/2018.

Construction Certificate 11.2017.208.1 for Home Industry Building was approved by Council on 23/2/2018.

Development Application Modification 10.2017.208.2 for Section 4.55 to Re-Orientate Location of Home Industry was approved by Council on 8/11/2018.

1.4. Project Team & Specialist Technical Advice

Specialist advice was sought from:

Specialist Technical Advice accompanies the EIS as follows:

Planning and EIS	PLANNERS NORTH
Architectural	Story Design Collective
Ecological Assessment	Biodiversity Assessments and Solutions Pty Ltd Pty Ltd
Bushfire	Bushfire Certifiers
Arborist	Northern Tree Care Services
BASIX	Building Sustainability Assessments
Civil, Traffic and Flooding	SDS Civil Enterprises Pty Ltd
Acid Sulfate Soil	ENV Solutions Pty Ltd

Such advice is embodied in this EIS and **Appendices B-I**.

2. The Site and its Context

This section of the report identifies the subject site and describes its environmental planning context.

2.1. Cadastral Description

The subject site, as illustrated in **Plan 2.1**, is described in Real Property terms as Lots 1-13 SP96105. The site has an area of 6086.66m² and is rectangular in shape. Access to the site is gained via Kendall Street.

2.2. Site Context

The subject site is located approximately 1.3km or 4 minutes' drive from Byron Post Office.

The site is located on the "edge" of the existing Byron Bay town centre. Existing residential, tourism and commercial development is sited to the east and northeast of the subject site along Shirley Street. The proposal adjoins a service station on the southern side of Kendall Street. The Cumbebin Nature Reserve lies to the south and west of the site. Existing vacant rural zoned land lies to the immediate north of the site on the northern side of Ewingsdale Road.

2.3. Site Analysis

Plan 2.2 provides a site analysis plan.

NOTES

Survey Intent

This detail survey was undertaken to locate the visible site features, including the topography & improvements thereon. It is not a "Land Survey" as defined by the Surveying and Spatial Information Act, 2002. As such, no boundary fixation was undertaken to accurately determine the parcel boundaries, the available land area or it's dimensions. The dimensions shown have been derived from the relevant registered plans held by the Land Titles Office. No work was undertaken to verify these dimensions. Should accurate boundary locations be required such as in work relying on critical setbacks from the street or boundaries, further survey work would need to be undertaken to accurately locate the boundaries, which may include the registration of a survey redefining the property. The Certificate of Title has not been investigated. Encumbrances may exist which are not identified on this plan, and therefore, a full investigation should be undertaken to assess any possible implications.

Underground Services

The location of the services shown hereon have been derived from a combination of field survey of visible components and records obtained from the appropriate authority. The exact location of these services, and any others may therefore vary and should be verified with the relevant authorities and or the "Dial before you Dig" service prior to any works being undertaken. Should any work be undertaken on or adjacent to the site to which this survey refers it is the responsibility of the person doing the work to locate any service that may be affected by that work. Numerous services including optic fibre cable may exist in the area and not all services may have been shown in our plan. Whilst due care was used in compiling this information, no responsibility can be accepted or taken by Ardill Payne & Partners for any inaccuracies or omissions shown or not shown hereon.

Level Datum

Level Datum: AHD Origin: PM30302 (RL 1.508 AHD) Contour Interval: 0.1m
Do not Scale Heights

NOTE: For Surveyed Points, Including Tree Details, refer to Autocad Layers: "X-MARK" "X-CODE" & "X-RL"

Accuracy

The accuracy of the features shown may not be suitable for purposes beyond the intent of the survey. The intended user must determine whether the required accuracy is adequate prior to use. Do not scale off this plan. Relationships of improvements to boundaries are diagrammatic only. This plan has been created at a scale of 1:600 and may not be satisfactory for other purposes. The accuracy of any enlargement or other reproduction may be less than that of the original. No responsibility will be accepted by Ardill Payne & Partners for use contrary to these terms.

Trees

Only trees deemed substantial have been located. This generally includes those with trunks over 100mm in diameter when measured 1m from the ground. Tree spread and trunk diameters shown are diagrammatic only & may not be symmetrical. Tree heights are estimated. An attempt has been made to identify tree species where possible, the intended user must verify species with a qualified professional before using any tree species outside of the intent of the survey.

Autocad codes are expressed as follows:

TR/SPECIES/TRUNK/HEIGHT/SPREAD where:
SPECIES = Tree species (if known)
TRUNK = Approx. Trunk Diameter in mm
HEIGHT = Approx Height in Metres
SPREAD = Approx Foliage Diameter in Metres

Any permitted downloading, electronic storage, display, print, copy or reproduction of this survey should contain no alteration or addition to the survey.

The title block and these notes are an integral part of this drawing and are not to be removed.

ZONING and BIODIVERSITY VALUE boundaries have been derived from the NSW Department of Planning and Environment Planning Portal mapping (<https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>).

SYMBOLS

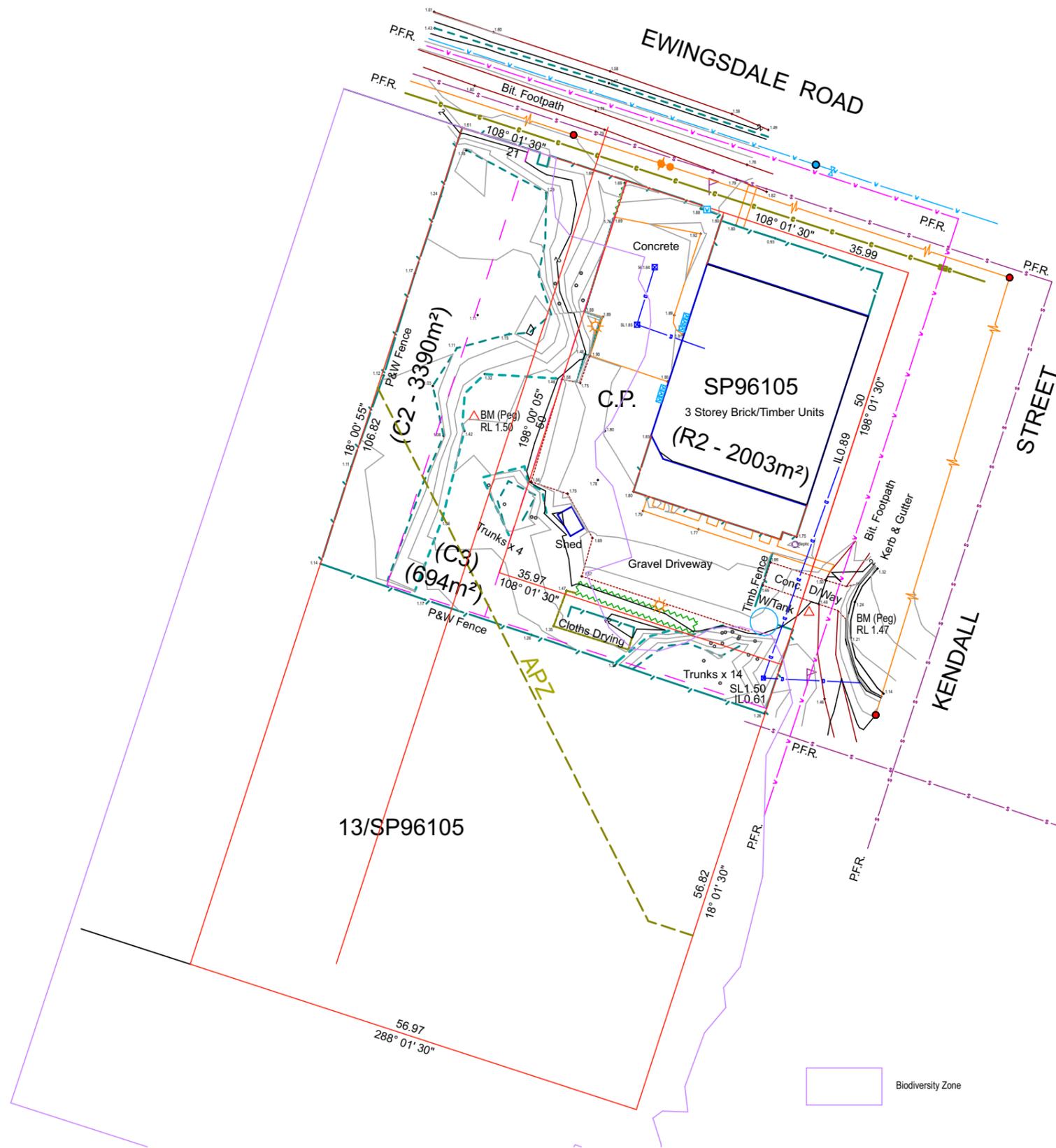
- WATER METER
- WATER TAP
- WATER VALVE
- WATER FIRE HYDRANT
- STORMWATER GRATE
- ELECTRICITY POLE
- LIGHT POLE (SOLAR)
- STAY WIRE
- ELECTRICITY PIT
- COMMS PIT
- BENCH MARK
- SIGN
- TREE (Spread approx. to scale)
- TREE TRUNK



LEGEND

LINE TYPES

- WATER RETIC
- WATER NP RETIC
- SEWER MAIN
- ELECTRICITY OVER HEAD
- COMMS
- BANK TOP
- BANK BOTTOM
- ROADS BITUMEN EDGE
- FENCE
- BOUNDARY SUBJECT
- BOUNDARY OTHER
- PAVING
- DRIVEWAY
- EAVE
- STORMWATER RETIC
- GARDEN
- ZONE BOUNDARY
- VEGETATION DRIP LINE



Source: Ardill Payne & Partners, Ref. 11620 Dwg., S01 Issue G Dated 30/10/23

0 15m
1 : 600 @ A3

SITE NOTES

GROUND SURFACE WATER

FALL GROUND 50mm MIN IN FIRST 1000mm FROM BUILDING

THE HEIGHT OF SLAB ABOVE EXTERNAL FINISHED SURFACE TO BE NOT LESS THAN:

- (A) 150mm ABOVE FINISHED GROUND LEVEL
- (B) 100mm ABOVE SANDY WELL DRAINED AREAS
- (C) 50mm ABOVE PAVED OR CONCRETE AREAS WITH FALL AWAY FROM BUILDING

ROOF DRAINAGE

FACE GUTTERS TO HAVE A MIN. FALL OF 1:500
BOX GUTTERS TO HAVE A MIN. FALL OF 1:100

CATCHMENT AREA	GUTTER
30m ²	115mm D GUTTER
40m ²	125mm D GUTTER
50m ²	150mm D GUTTER
60m ²	150mm D GUTTER

DOWNPIPES

MIN. SIZE 90mm DIAMETER

MAX. SPACING OF DOWNPIPES IS 12m

DOWNPIPES TO BE FIXED AS CLOSE AS POSSIBLE TO VALLEY GUTTERS & IF MORE THAN 1.2m FROM THE VALLEY PROVISION FOR AN OVERFLOW IS REQUIRED.

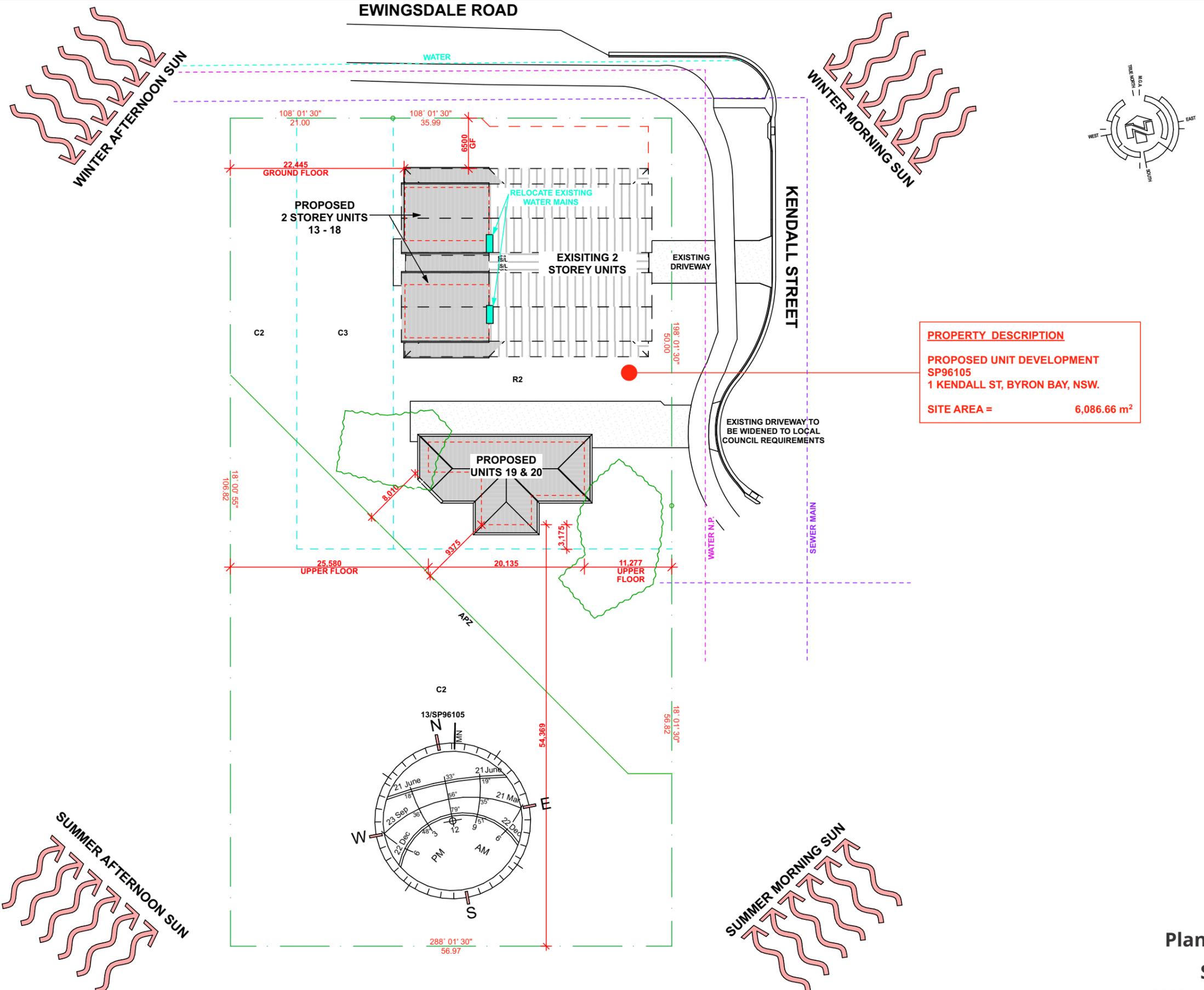
STORMWATER

STORMWATER TO LEGAL POINT OF DISCHARGE

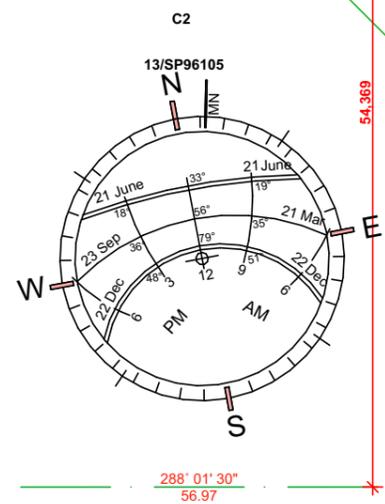
STORMWATER LINES FOR 2 OR MORE DOWNPIPES TO BE 100mm DIA. WITH ALL BRANCHES TO BE 90mm DIA.

STORMWATER LINES SHALL BE TO A MIN. FALL OF 1:60 & WHERE POSSIBLE PLACED AS SHOWN.

100mm COVER TO STORMWATER DRAINAGE. STORMWATER & SEWER TO HYDRAULIC CONSULTANT'S INSTRUCTIONS.



PROPERTY DESCRIPTION
PROPOSED UNIT DEVELOPMENT
 SP96105
 1 KENDALL ST, BYRON BAY, NSW.
SITE AREA = 6,086.66 m²



Source: Story Design Collective, Ref. 23001 Dwg. No. 106 Issue J Dated 5/03/2024



3. Project Justification and Alternatives

This section of the report considers alternatives and reasons for carrying out the project.

3.1. Objectives of the Development

The proposal seeks to provide for an increased supply of 1 and 2-bedroom dwellings within walking distance to Byron Bay Town Centre. The existing 12 dwellings located on the site are held in a single ownership and provide rental accommodation. Byron Bay generally has a lack of 1 and 2-bedroom dwellings in particular, which are privately rented and not utilised for tourist accommodation purposes.

The objective of the proposed development is to provide for an increase in the diversity of housing supply within walking distance to services and facilities.



Existing wetlands to the south and west

3.2. Analysis of Alternatives

3.2.1. Option 1: Not Proceeding with any Increase in Dwellings

The retention of the site in its current form would see the existing site located within close proximity to services and facilities underutilised. Not proceeding with the proposal would also result in no additional 1 and 2-bedroom units available for rental accommodation.

3.2.2. Option 2: Alternative Building Design

An alternative building design achieving a similar outcome in terms of density and diversity in housing would result in a building which is less sympathetic with the existing form and scale of the surrounding Shirley Street precinct and a built form which is potentially closer to sensitive parts of the site.

4. The Development Proposal

This section of the report defines the site planning objectives utilised in schematic design. Further, this section describes the project.

4.1. Site Planning Objectives

The project is for alterations and additions to an existing multi dwelling house development in Byron Bay and seeks to:

- a) Provide an increase in the supply and diversity of rental accommodation.
- b) Provide additional housing stock within close proximity to existing services and facilities.
- c) Ensure that the proposed development protects the existing ecological values of the site and locality.
- d) Provide for a high level of residential amenity whilst minimising impacts on surrounding development.
- e) Ensure that the proposal does not result in an unreasonable demand on existing services.

4.2. Description of the Proposal

The Development Consent is sought to undertake alterations and additions to an existing multi dwelling house development. The proposal provides for additions to the existing multi dwelling housing comprising:

- The construction of six (6) x two (2) storey, one (1) bedroom dwellings,
- The construction of two (2) x two (2) storey, two (2) bedroom dwellings, and
- The construction of additional car parking.

This work is illustrated in **Plan 4.1**.

Architectural plans illustrating the minor alterations and additions proposed are contained at **Appendix B**.

The estimated cost of the alterations and additions proposed is \$2,476,100 (see cost estimate at **Appendix J**).

The existing and proposed development is detailed in **Table 4.1** below:



Existing site development

AREA CALCULATIONS	
SITE AREA =	6,086.66 m²
EXISTING AREAS	
R2 SITE AREA =	1,100.00m ²
EXISTING GFA =	564.00 m ²
EXISTING FSR =	0.51:1
PROPOSED AREAS	
R2 SITE AREA =	902.95 m ²
PROPOSED GFA =	437.58 m ²
PROPOSED FSR =	0.48:1
COMBINED AREAS	
R2 SITE AREA =	2,002.95m ²
COMBINED GFA =	1,001.58 m ²
COMBINED FSR =	0.50:1
CARPARKING CALCULATIONS	
EXISTING CARSPACES =	12
EXISTING VISITOR =	4
PROPOSED CARSPACES =	8
VISITOR CARSPACES =	1
COMBINED CARSPACES =	20
COMBINED VISITOR =	5
TOTAL CARSPACES =	25

Table 4.1 Development statistics

4.3. Ancillary Approvals

No ancillary approvals are sought in conjunction with the subject development application.

4.4. Services and Utilities

As detailed in the engineering report prepared by SDS Civil Enterprises Pty Ltd, adequate services and utilities are available for the proposed development. The proposal will utilise the two existing access driveways, with an increase in width required for the southern access driveway.

Stormwater run off from the site will continue to be directed to the Kendall Street pipe system. The site is currently serviced with water and pressure sewer systems.

Commensurable augmentation of these services will be required, inclusive of increasing the pressure sewer system, “wet welling” storage. These works will be approved with the Construction Certificate design process.



Existing development on the site

SITE NOTES

GROUND SURFACE WATER

FALL GROUND 50mm MIN IN FIRST 1000mm FROM BUILDING

THE HEIGHT OF SLAB ABOVE EXTERNAL FINISHED SURFACE TO BE NOT LESS THAN:

- (A) 150mm ABOVE FINISHED GROUND LEVEL
- (B) 100mm ABOVE SANDY WELL DRAINED AREAS
- (C) 50mm ABOVE PAVED OR CONCRETE AREAS WITH FALL AWAY FROM BUILDING

ROOF DRAINAGE

FACE GUTTERS TO HAVE A MIN. FALL OF 1:500
BOX GUTTERS TO HAVE A MIN. FALL OF 1:100

CATCHMENT AREA	GUTTER
30m ²	115mm D GUTTER
40m ²	125mm D GUTTER
50m ²	150mm D GUTTER
60m ²	150mm D GUTTER

DOWNPIPES

MIN. SIZE 90mm DIAMETER

MAX. SPACING OF DOWNPIPES IS 12m

DOWNPIPES TO BE FIXED AS CLOSE AS POSSIBLE TO VALLEY GUTTERS & IF MORE THAN 1.2m FROM THE VALLEY PROVISION FOR AN OVERFLOW IS REQUIRED.

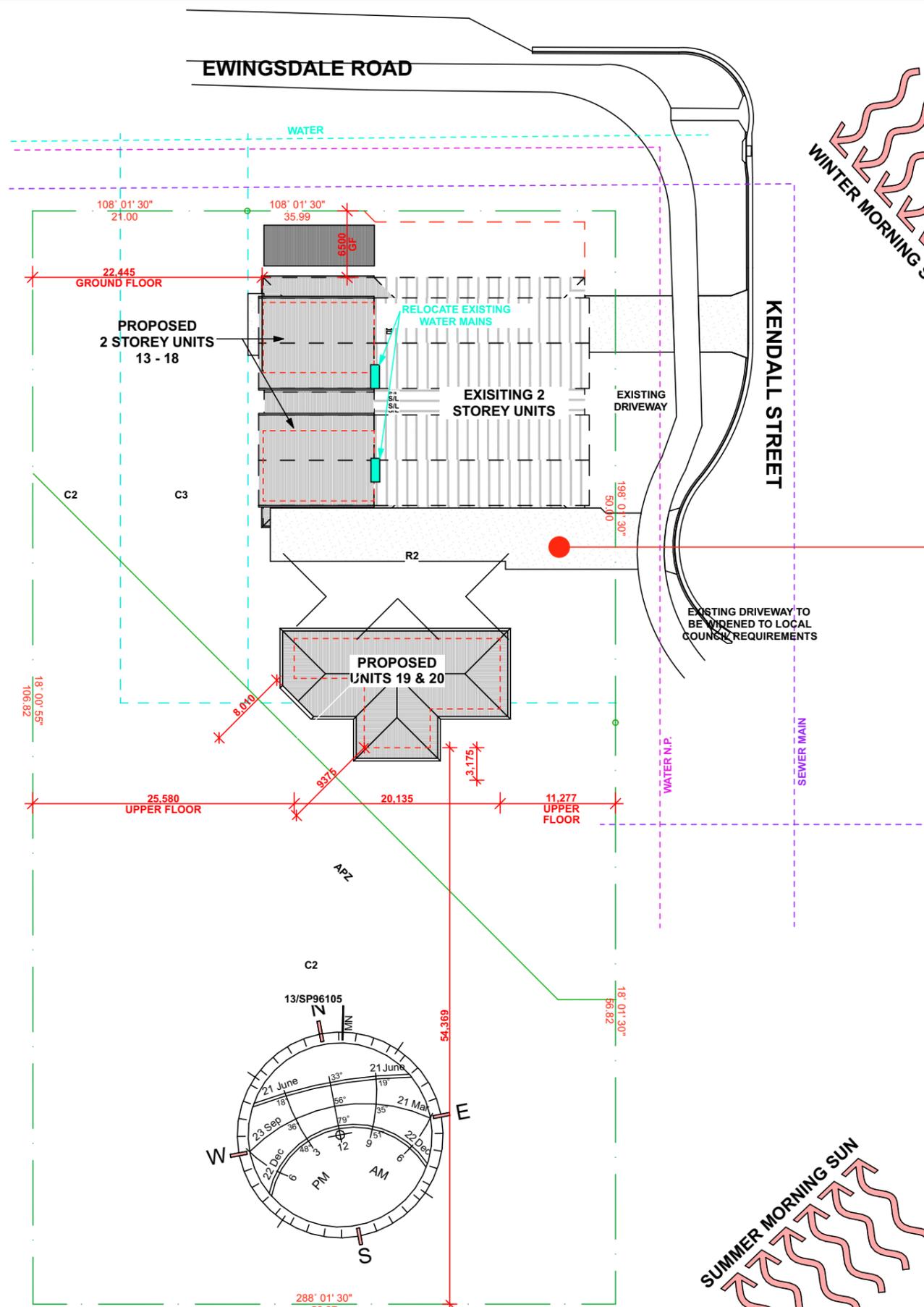
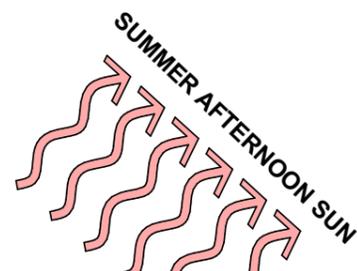
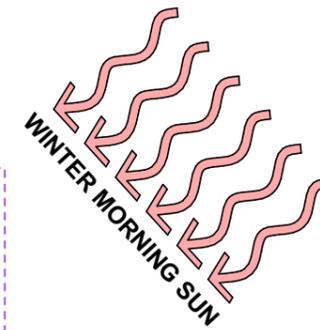
STORMWATER

STORMWATER TO LEGAL POINT OF DISCHARGE

STORMWATER LINES FOR 2 OR MORE DOWNPIPES TO BE 100mm DIA. WITH ALL BRANCHES TO BE 90mm DIA.

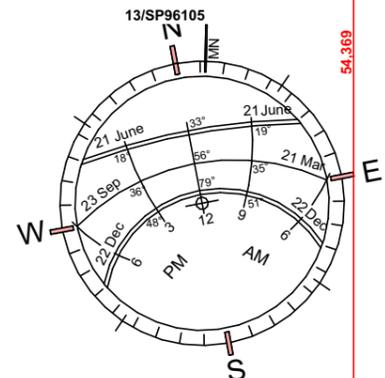
STORMWATER LINES SHALL BE TO A MIN. FALL OF 1:60 & WHERE POSSIBLE PLACED AS SHOWN.

100mm COVER TO STORMWATER DRAINAGE. STORMWATER & SEWER TO HYDRAULIC CONSULTANT'S INSTRUCTIONS.



PROPERTY DESCRIPTION
 PROPOSED UNIT DEVELOPMENT
 SP96105
 1 KENDALL ST, BYRON BAY, NSW.
 SITE AREA = 6,086.66 m²

AREA CALCULATIONS	
SITE AREA =	6,086.66 m ²
EXISTING AREAS	
R2 SITE AREA =	1,100.00m ²
EXISTING GFA =	564.00 m ²
EXISTING FSR =	0.51:1
PROPOSED AREAS	
R2 SITE AREA =	902.95 m ²
PROPOSED GFA =	437.58 m ²
PROPOSED FSR =	0.48:1
COMBINED AREAS	
R2 SITE AREA =	2,002.95m ²
COMBINED GFA =	1,001.58 m ²
COMBINED FSR =	0.50:1
CARPARKING CALCULATIONS	
EXISTING CARSPACES =	12
EXISTING VISITOR =	4
PROPOSED CARSPACES =	8
VISITOR CARSPACES =	1
COMBINED CARSPACES =	20
COMBINED VISITOR =	5
TOTAL CARSPACES =	25



Source: Story Design Collective, Ref. 23001 Dwg. No. 106 Issue J Dated 5/03/2024



5. Statutory and Policy Planning

This section documents the range of planning controls applicable in the subject case pursuant to Section 4.15 (1)(a) of the Act and tabulates the effect of these instruments in the circumstances of the development proposal.

5.1. Statutory Considerations

5.1.1. Deemed Environmental Planning Instruments

No deemed Environmental Planning Instruments (EPI) have particular relevance to the proposed development.

5.1.2. Local Environmental Plans

Name: Byron Local Environmental Plan 2014, (BLEP14)

Application in Subject Case:

Zone: The land is zoned R2 Low Density Residential, C2 Environmental Conservation and C3 Environmental Management.

Permissibility: The existing multi dwelling housing was approved in accordance with development consent 10.2015.398.1. Multi dwelling housing is defined as follows:

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

*Note— Multi dwelling housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.*

The proposal is permissible with development consent.

Concurrence: The proposed development does not trigger a requirement for any concurrence.

Advertising: Advertising of this development is not required under BLEP14.

Arrangements: No specific arrangements are required to be made prior to the granting of consent under any Environmental Planning Instrument.



Existing Service Station opposite the site

Special Provisions Applicable: The following provisions of the BLEP14 are applicable to Council's consideration of the subject proposal:

Clause 2.3 - Zone Objectives: The objectives of the relevant zones are set out below.

Zone R2 Low Density Residential

1 Objectives of zone

- 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.

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Dual occupancies; Dwelling houses; Group homes; Health consulting rooms; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Pond-based aquaculture; Respite day care centres; Roads; Secondary dwellings; Seniors housing; Tank-based aquaculture; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Local distribution premises; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Residential care facilities; Restricted premises; Rural industries; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies

Comment

Multi dwelling housing is permissible with consent in the R2 low density residential zone. It is submitted that the proposal is consistent with providing for the housing needs of the community within a low density, residential environment given the context of the overall site area and form and scale of the development proposed.

Zoning Map



Legend:

- R2 - Low Density Residential
- C2 - Environmental Conservation; C2, Environmental Management
- C3 - Environmental Management



Source: Byron Shire Online Mapping, viewed 7/5/2024



Not scaled

Legend

-  Subject site
-  Environmental Conservation
-  Environmental Management
-  Low Density Residential

Plan 5.1
BYRON
LEP 2014
ZONING

Zone C2 Environmental Conservation

1 Objectives of zone

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Environmental facilities; Extensive agriculture; Oyster aquaculture; Recreation areas; Roads

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Local distribution premises; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential accommodation; Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

Comment

The proposed development provides for the maintenance of existing bushfire hazard management works only within the C2 Environmental Conservation Zone.

Zone C3 Environmental Management

1 Objectives of zone

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To encourage passive recreation and environmental education where there is no detrimental effect to land.*

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Community facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Home businesses; Home industries; Horticulture; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Roads; Tank-based aquaculture; Veterinary hospitals; Wharf or boating facilities

4 Prohibited

Industries; Local distribution premises; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Comment

The proposed development provides for the maintenance of existing bushfire hazard management works only within the C3 Environmental Management Zone.

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.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Height of Buildings Map



Legend:

Comment

As depicted in the plans prepared by Story Design Collective, the height of the proposed buildings does not exceed the maximum permissible height of 9m.

4.4 Floor space ratio

(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) to provide floor space in employment and mixed use 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.

Floor Space Ratio Map



Legend:

Comment

The proposed development will result in a total gross floor area of 1,000.04m² and a Floor Space Ratio of 0.5:1 based on a total area of R2 zoned land of 2,002.95m².

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.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	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.

- (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,*

Acid Sulfate Soils Map



Legend:



- (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.*

(8) *In this clause—*

drainage management plan means an irrigation and drainage management plan that—

- (a) *is prepared in accordance with the NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005), and*
- (b) *is endorsed by the Sugar Milling Co-operative as being appropriate for the land.*

NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005) means the guidelines approved by the Director-General of the Department of Infrastructure, Planning and Natural Resources on 25 May 2005.

production area entitlement means a contractual arrangement between the Sugar Milling Co-operative and a grower member of that co-operative for the production of sugar cane for milling.

Sugar Milling Co-operative means the New South Wales Sugar Milling Co-operative Limited or its successor.

Note—

The NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005) is available on the Department of Planning and Infrastructure’s website.

Comment

The site contains Class 3 potential Acid Sulfate Soils. Proposed works exceeding 1 metre below the natural ground surface, or by which the water table is likely to be lowered more than 1 metre below the natural ground surface, will need to address the provisions of Clause 6.1 Acid Sulfate Soils. An Acid Sulfate Soils assessment has been prepared by ENV Solutions Pty Ltd. That report reviews a previous Acid Sulfate Soils Management Plan for the site and concludes that the overall disturbance of the site is minimal. The report concludes that any soils excavated as part of the proposed development of the site are to be managed under the existing Acid Sulfate Soils Management Plan for the site prepared by Ardill Payne and Partners in 2016. The report also recommends an appropriate liming rate for excavated material to be treated with and validation sampling of treated material to be undertaken.

6.4 Floodplain risk management

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

- (a) *in relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding above the flood planning level,*
- (b) *to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.*

(2) *This clause applies to—*

- (a) *land between the flood planning area and the level of the probable maximum flood, and*
- (b) *land surrounded by the flood planning area,*

but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

(3) *Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land—*

- (a) *caravan parks,*
- (b) *correctional centres,*
- (c) *emergency services facilities,*
- (d) *group homes,*
- (e) *hospitals,*
- (f) *residential care facilities,*
- (g) *tourist and visitor accommodation.*

(4) *In this clause—*

flood planning area *means the area of land at or below the flood planning level.*

flood planning level *means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.*

probable maximum flood *has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in 2005.*

Note—

The probable maximum flood is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation.

Comment

The site is subject to flooding. An assessment in relation to flooding has been undertaken by SDS Civil Enterprises. That report concludes that the site complies with a Q 100 YR Flood Planning Level of 3.1m for habitable floor levels. The report also notes that the lower building/ garage areas will be constructed in accordance with flood resilient building requirements.

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,*

- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

Comment

The proposed development is able to be adequately serviced. SDS Civil Enterprises has prepared an Engineering Services report which indicates the site is currently serviced with water and pressure sewer systems. Commensurable augmentation of these services will be required.

5.1.3. Development Control Plans

The following chapters and sections of Byron Shire Development Control Plan 2014 (BDCP14) may have application to the proposed development.

Chapter	Compliance
Part A - Preliminary	
Part B - Controls Applying Generally to Development Applications	
B1 - Biodiversity	An ecological assessment accompanies the EIS.
B2 - Tree and Vegetation Management	An Arborist report has been prepared by Northern Tree Services in relation to impacts on trees and vegetation and is provided at Appendix E . That report reviews the potential impact of the proposed alterations and additions on existing trees on the site. The report concludes that the construction of the development as planned will not cause any of the trees described in the report to become unviable. The report states that in each case there is an area available for the trees to grow additional roots to compensate for any roots lost during construction. The report confirms the proposal does not involve the removal of any trees for the development and recommends the trees described in the report to be protected during construction.
B3 - Services	An engineering services report has been prepared by SDS Civil Enterprises addressing provision of services.
B4 - Traffic Planning, Vehicle Parking, Circulation and Access	The report prepared by SDS Civil Enterprises addresses traffic planning, vehicle parking, circulation and access.

Chapter	Compliance
B7 – Mosquitoes and Biting Midges	The measures employed in the existing building including screens will be applied to the proposed alterations and additions.
B8 – Waste Minimisation and Management	A Site Waste Management and Minimisation Plan accompanies the application at Appendix I .
B9 – Landscaping	The subject site is presently landscaped and no additional landscaping is required.
B13 – Access and Mobility	An assessment undertaken in relation to the National Construction Code (NCC) indicates that one (1) adaptable dwelling will be required to be provided and it is anticipated that Council will condition the consent to this effect.
Part C – Further Controls Applying to Land with Specific Constraints and Environmental Characteristics	
C2 – Areas Affected by Flood	An engineering assessment addresses the provisions of Chapter C2.
Part D – Further Controls Applying to Specific Land Uses	

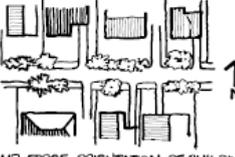
The provisions of Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones are particularly relevant to the proposed development and are addressed in detail below.

Chapter D1 - Residential Accommodation in Urban, Village and Special Purpose Zones

	Provisions	Compliance
D1.2	General Provisions	
D1.2.1	Building Height Plane	
	Objectives	
	<ol style="list-style-type: none"> 1. To ensure that residential development is designed to minimise impacts on solar access and privacy on adjoining properties, and on the views from adjacent existing buildings. 2. To ensure that the occupants of the building or buildings will enjoy the optimum use of winter sunlight and summer shade. 3. To establish spatial separation of residential dwellings and domestic outbuildings from the street, and between allotments, to provide a varied and interesting streetscape, optimise microclimate, and mitigate excessive bulk in built-form. 4. To establish neighbourhoods that offer a high level of amenity and sense of openness with buildings that are cognisant of, and blend with, the scale and streetscape character of the locality. 	The proposed alterations and additions to the existing building are set well back from the northern, western and southern boundaries and comply with the prescriptive measures in relation to the Building Height Plane.

	Provisions	Compliance
	<p>5. To provide flexibility in application of the Building Height Plane for steeply sloping and constrained sites to optimise building orientation and location and mitigate off-site impacts (ie. overshadowing, overlooking).</p>	
	<p>Performance Criteria</p>	
	<p>1. Developments must be set back progressively from the site boundaries as height increases so that they:</p> <ul style="list-style-type: none"> a) do not adversely affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy or obstructing views. b) establish spatial separation between residential dwellings (including domestic outbuildings) from the street and other public reserves, and between allotments, to provide a varied and interesting streetscape, optimise microclimate, and mitigate excessive bulk in built-form. c) integrate with surrounding developments, public reserves and the predominant streetscape character to offer a high level of amenity and establish a sense of openness. <p>2. Developments must respond to the constraints of the site (eg. slope, orientation, configuration/shape) to optimise solar access for the private open space and solar power infrastructure of the development site and adjoining properties.</p>	
	<p>Prescriptive Measures</p>	
	<p>1. The building height plane in combination with boundary setbacks prescribed in this DCP, and building height prescribed in the Byron LEP 2014, form the maximum building envelope for all residential development other than for shop top housing and ancillary dwellings in Zones IN1, IN2 and B7.</p>	
	<p>2. Variation to the building height plane may be considered in relation to one or more boundaries in the following circumstances:</p> <ul style="list-style-type: none"> a) where the floor level is required to be above ground level to comply with Council's requirements for flood protection; or b) for the zero lot line boundaries of semi-detached dwellings and attached dwellings; or c) in circumstances referred to in Prescriptive Measure 2. of Section D1.2.2. d) where unavoidable site constraints (slope, orientation, configuration/shape) intensify off-site impacts such as overshadowing (provided the impacts are addressed in accordance with Development Controls related to Privacy and Solar Access) and mitigation measures are included in the design to the fullest extent possible. 	

	Provisions	Compliance
D1.2.2	Setbacks from Boundaries	
	Objectives	
	<ol style="list-style-type: none"> 1. To achieve varied and interesting streets that complement and harmonise with existing and planned streetscapes and development in the locality. 2. To achieve good orientation and spacing of residential developments that achieve high quality living environments relative to sunlight, shade, wind and weather protection, residential amenity and proximity of neighbouring development. 3. To achieve effective use of allotments to create useable and liveable private open space and courtyards. 4. To provide flexibility in siting and design of dwelling house development in urban residential areas. 5. To ensure that development in residential areas seeks to minimise any negative impacts on neighbours caused by siting. 	
	Performance Criteria	
	<ol style="list-style-type: none"> 1. Setback requirements may be flexible provided they are demonstrated to achieve the above Objectives and Performance Criteria. 2. The street façade of a building, and any open space between it and the street must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping. A reasonable degree of integration with the existing pattern of setbacks must be balanced with the need to provide variety in the streetscape. 3. Private open space and common landscaped areas of the site must be useable as part of the living environment available for the occupants of the development. Council will discourage the provision of bare spaces between buildings and the street which are unusable because they lack privacy, or because they are inappropriately planned or treated for climate control. 4. The setback from a street frontage for a building that is part of a residential development will be determined on its merits, having regard to: <ol style="list-style-type: none"> a) the Objectives; b) any provisions of this DCP applying to the specific location; c) the position of any existing buildings in the locality; d) the size and shape of the allotment; e) the effect on vehicular safety and visibility, particularly on corner sites; f) the orientation of the allotment and the proposed dwelling with regard to the sun and prevailing winds; g) the proposed location of any private open space, courtyard or landscaped areas; 	

	Provisions	Compliance
	<p>h) the facade of the proposed building or buildings which will face the street and the proposed landscape treatment of that part of the allotment which is visible from the street;</p> <p>i) the location and treatment of any car parking areas or car parking structures on the site.</p> <p>5. Notwithstanding any of the above criteria, buildings must comply with the building height plane as detailed in Section D1.2.1.</p> <p>6. Dwelling house development may be permitted to encroach into the side setback and building height plane where it enhances the design of buildings, complements the streetscape and does not adversely affect privacy, solar access, microclimate, traffic safety or amenity of adjoining development.</p> <p>7. When considering applications for variations to minimum setbacks nominated below in the Prescriptive Measures, Council will have regard to:</p> <p>a) the Objectives;</p> <p>b) compliance with the Performance Criteria;</p> <p>c) the visual impact of the variation on the streetscape;</p> <p>d) the impact of the variation on the amenity, privacy, views and access of surrounding properties;</p> <p>e) the existing and future status of the road;</p> <p>f) potential traffic impacts and required sight lines as per AS2890; and</p> <p>g) compliance with the Building Code of Australia.</p> <p>8. The Development must seek to minimize any impacts on neighbouring properties through considerate siting and design</p> <div data-bbox="343 1211 678 1704" style="border: 1px solid black; padding: 5px;"> <p>FLEXIBLE SETBACKS CREATE INTEREST, MAXIMIZE PRIVATE, OPEN SPACE,</p>  <p>AND ALLOW THE BUILDING TO BE LOCATED WITH THE BEST ORIENTATION.</p> <p>UNIFORM SETBACKS CAN BE MONOTONOUS, CREATE UNUSABLE FRONT YARDS,</p>  <p>AND FORCE ORIENTATION OF BUILDINGS UNRELATED TO CLIMATE OR SITE FEATURES.</p> </div> <p>Figure D1.1 – Setbacks</p>	
	<p>Prescriptive Measures</p>	
	<p>Strict compliance with the following minimum setback prescriptive measures will not necessarily be sufficient by itself to meet the Objectives.</p>	<p>The proposed building is set back a minimum of 6.5m from the primary front boundary. This</p>

	Provisions	Compliance
	<p>1. Minimum Street Frontage Setbacks</p> <p>a) Local Roads - A minimum setback of 4.5 metres must be maintained from the primary front boundary.</p> <p>b) Classified roads- A minimum setback of 9 metres applies to these roads from the primary front boundary. A variation to 6.5 metres may be sought for single storey dwellings or single storey elements of two storey dwellings. (NB. The provisions under SEPP Infrastructure 2007 apply to such developments)</p> <p>c) Garages and carports are to be set back 5.5m from the front boundary except from classified roads where the setbacks under (b) are to apply.</p> <p>d) Corner allotments on local or secondary roads - setbacks may be reduced to 3m on one frontage.</p> <p>e) Rear Lane or unformed roads - 3 metres, unless it is the primary frontage to the development (eg. Shirley Lane, Byron Bay) in which case a setback of 4.5 metres applies including to garages and carports. Consideration may be given to setback variations in Heritage Conservation Areas where strict compliance with these provisions would result in conflict with the Chapter and Section Objectives specified in Chapter C1 Non-Indigenous Heritage.</p> <p>No development is permitted within the building setbacks other than garbage storage facilities, mail boxes, landscaping and driveways. Car parking must not be provided within setbacks, other than informal parking within the driveway (i.e. parking not required by the DCP). Stacked car parking is not permitted within setbacks.</p>	<p>setback is consistent with the setback of the existing building, notwithstanding it does not strictly comply with the minimum setback of 9m applicable to two storey buildings. The proposed variation is considered appropriate in the circumstances.</p>
	<p>2. Minimum Side and Rear Boundary Setbacks</p> <p>a) Side and rear setbacks are to be a minimum 900mm, with all dwellings also complying with the requirements of the building height plane.</p> <p>b) In urban residential areas, Council may consent to the construction of one or more building walls set back less than 900mm from a side or rear boundary, such that the building/s cannot comply with the building height plane, where:</p> <p>i) such wall or walls contain no openings; and</p> <p>ii) it is demonstrated to Council's satisfaction that the development, if carried out, would improve the siting or orientation of the dwellings or the provision of private open space; and would not significantly:</p> <ul style="list-style-type: none"> • increase the overshadowing of adjoining properties; or • reduce the level of privacy enjoyed by adjoining properties. <p>c) Applications for zero lot line development will only be considered where the relevant lot or lots are part of an integrated design, and where all buildings set to a</p>	

	Provisions	Compliance
	zero lot line are constructed prior to issue of a Subdivision Certificate.	
	3. Minimum Setbacks for Dual Occupancies and Secondary Dwellings a) Side and rear setback – 1.5 metres for single storey, and must comply with the building height plane	
	4. 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.	The separation between the northern building and the proposed dwellings 19 and 20 is greater than the 3 metres required.
	5. Minimum Setbacks for Swimming Pools and Spas 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 1.5 metres from those boundaries. 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.	
D1.2.3	Privacy	
	Objectives	
	1. To ensure buildings do not unduly affect existing or future development on adjoining properties by impinging on privacy or obstructing views. 2. To ensure buildings are designed to optimise privacy for internal and external spaces while allowing for casual surveillance of the street and other public spaces. 3. To ensure that building design is cognisant of site constraints (slope, orientation, configuration/shape) and addresses privacy accordingly.	
	Performance Criteria	
	1. Developments must be set back progressively from the site boundaries in accordance with the Building Height Plane to establish spatial separation between buildings and property boundaries to not adversely affect existing or future development on adjoining properties by impinging on privacy. 2. Windows of developments must include design elements (screening, landscaping, opaque glazing) to protect the privacy of adjacent properties where: a) encroachments into the Building Height Plane are proposed; and/or b) site constraints (slope, orientation, configuration/shape) necessitate, to ensure the continued protection of adjacent privacy.	

	Provisions	Compliance
	3. All parts of any decks, terraces and balconies located in the Building Height Plane are designed to have generous building separation and screens to avoid loss of amenity and visual privacy.	
	Prescriptive Measures	
	1. Where a direct view exists into the private open space of an adjoining dwelling, the outlook from windows, landing stairs, terraces, decks and balconies must be screened by privacy screens which achieve at maximum 50% transparency, or obscured by landscaping.	The proposed alterations and additions do not directly adjoin any existing residential development and will not result in any adverse impacts in terms of privacy or overlooking.
	2. Decks, terraces, balconies and other external living areas within 4 metres 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 negligible overlooking and/or privacy impacts.	
D1.2.4	Solar Access	
	Objectives	
	1. To ensure that residential development is designed to optimise solar access and thereby not significantly overshadow living areas (decks, living rooms, bedrooms, kitchens etc.), private open spaces and existing solar power installations of both the development site and adjoining properties.	
	Performance Criteria	
	<p>1. Development must be designed cognisant of microclimate to promote energy efficiency and ensure that residents of the development site enjoy optimum use of winter sunlight and summer shade in living areas (decks, living rooms, bedrooms, kitchens etc.) and private open space.</p> <p>2. Development must respond to the constraints of the site (eg. slope, orientation, configuration) and be appropriately located to ensure residential development does not significantly overshadow the living areas (decks, living rooms, bedrooms, kitchen, bedroom etc.) and private open spaces of adjoining properties.</p> <p>3. Development must ensure that living areas (decks, living rooms, bedrooms, kitchens, etc.), private open spaces and existing solar power installations of development on the site and adjoining properties will have solar access between the hours of 9.00am to 3.00pm on any day.</p>	
	Prescriptive Measures	

	Provisions	Compliance
	1. Except where there is no possibility of overshadowing, proposed development comprising two storeys or greater must be accompanied by shadow diagrams over the subject and adjoining sites for the summer solstice (21st December) and winter solstice (21 June) at the times of 9am, 12pm and 3pm. Shadow cast by fences, roof overhangs and changes in level are to be considered and should be indicated on shadow diagrams submitted. Plans must clearly differentiate the existing situation with the proposed situation to fully demonstrate the extent of the proposed overshadowing.	As noted above, the proposed development does not adjoin any existing residential development. Solar access diagrams have been provided and illustrate that no adverse effects will result in adjoining properties.
	2. Shadow diagrams must demonstrate that proposed dwellings are to achieve a minimum of: a) two hours sunlight between 9am and 3pm on June 21 for private open spaces; and b) three hours of sunlight between 9am and 3pm on June 21 over a portion of their north-facing living areas (decks, living rooms, bedrooms, kitchens etc.).	
	3. Shadow diagrams must demonstrate that neighbouring dwellings are to achieve a minimum of: a) two hours of sunlight to at least 50% of private open spaces between 9am and 3pm on June 21; and b) three hours of sunlight between 9am and 3pm on June 21 over a portion of north-facing living areas (decks, living rooms, bedrooms, kitchens etc.). c) where overshadowing by existing buildings is greater than the abovementioned, sunlight is not to be further restricted.	
	4. New dwelling design should minimise overshadowing on existing adjacent solar panels where other reasonable design alternatives are possible.	
D1.2.5	Screening the Underfloor Space of Buildings	
	Objectives	
	1. To improve the external appearance of elevated buildings. 2. To provide for compatibility in appearance and character between buildings in the locality.	
	Performance Criteria	
	1. The underfloor space of elevated buildings must be provided with infill panelling, advanced landscaping or other forms of visual screening to improve the external appearance of the building and to ensure compatibility with other development in the locality. 2. In flood liable land the screening of the underfloor space of elevated buildings may not be appropriate. Screening below the flood planning level must have openings to allow for entry and exit of flood water and must be structurally adequate and not reduce the structural capacity of the building during a 1 in 100 year flood event.	Not applicable

	Provisions	Compliance
	3. Where buildings are proposed on bush fire prone land, underfloor screening may be required to comply with specific requirements prescribed by the Building Code of Australia and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.	
	Prescriptive Measures	
	There are no Prescriptive Measures.	
D1.2.6	Character & Visual Impact	
	Objectives	
	<ol style="list-style-type: none"> 1. To retain and enhance the unique character of Byron Shire and its distinctive landscapes, ecology, towns, villages, rural and natural areas. 2. To ensure that new development respects and complements those aspects of an area's natural and built environment that are important to its existing character. 	
	Performance Criteria	
	<ol style="list-style-type: none"> 1. Development should demonstrate how siting, design and character are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP. 2. Site, building and landscaping design must address the climate; 3. The street face of a building, together with any open space between it and the street, must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping; 4. Development should be designed to minimise loss of privacy; 5. There must be a reasonable degree of integration with the existing built and natural environment, balanced with the desirability of providing for variety in streetscapes; 6. Long, straight wall areas will be discouraged and must be broken up visually by a combination of building materials and/or changes in the wall plane; 7. The provision of verandahs, balconies, pergolas and other protective outdoor elements will be encouraged for visual, climatic and energy efficiency reasons; 8. Well-designed overhanging eaves should be provided where feasible to protect against heavy rainfall and summer sun, while allowing winter sun penetration; 9. All building materials must be compatible in character with their surrounding environment. Any metal roof must have a colorbond or equivalent finish and no roof may be highly reflective. White or 	<p>The proposed alterations and additions have been appropriately sited and designed to complement the existing built form on the property.</p> <p>The proposed design incorporates appropriately pitched roofs, avoids long straight walls and incorporates well designed overhanging eaves. The proposed materials will match existing and include weatherboard painted cladding, timber features and colourbond roofing.</p>

	Provisions	Compliance
	light-coloured roofing may be approved where it is demonstrated that it is not likely to be visually intrusive. Details of building materials and surface colours must be submitted for assessment with a development application.	
	Prescriptive Measures	
	There are no Prescriptive Measures.	
D1.2.7	Fences	
	Objectives	
	<ol style="list-style-type: none"> 1. To enable residents to erect fences to provide for a sense of privacy, noise reduction and security. 2. To ensure that fences do not remove the sense of safety in the street that pedestrians gain from the casual observation by residents. 3. To ensure that fences do not unduly reduce opportunities for casual social interaction in the community. 4. To ensure that fences do not become a dominant built element in the streetscape. 5. To exclude unwanted light from vehicles in particular circumstances. 6. To ensure that the design and placement of fences do not adversely impact traffic or pedestrian safety. 7. To ensure provision for access by safety and emergency vehicles and personnel. 	
	Performance Criteria	
	<ol style="list-style-type: none"> 1. Fences must not: <ol style="list-style-type: none"> a) impair driver or pedestrian visibility at road intersections; b) prevent residents of a dwelling from casually observing the adjacent street; c) detract from the streetscape in terms of fencing design, materials, scale or colours; d) prevent emergency access by safety and emergency vehicles and personnel. 2. Gates or openings in fences must facilitate safe entry and exit conditions for vehicles to and from public roads. Fences must not create or contribute to unsafe sight distance restrictions for vehicles entering or exiting neighbouring properties. 3. Fencing of corner allotments must allow for reasonable enclosure of rear yard areas for privacy and security, while minimising the impact of the fence on the street scene, safe sight distance and traffic and pedestrian safety. 	No amendment is proposed to the existing fencing.

	Provisions	Compliance												
	Prescriptive Measures													
	<p>1. <u>Height of Fences</u> a) The height of fences should not exceed:</p> <table border="1"> <thead> <tr> <th data-bbox="336 365 667 427">Table D1.1 – Height of Fences</th> <th data-bbox="667 365 979 427">Fence Location</th> <th data-bbox="667 365 979 427">Height</th> </tr> </thead> <tbody> <tr> <td data-bbox="336 427 667 461">Front Fence</td> <td data-bbox="667 427 979 461"></td> <td data-bbox="667 427 979 461">1.2 metres.</td> </tr> <tr> <td data-bbox="336 461 667 555">Side Fence</td> <td data-bbox="667 461 979 555">1.2 metres within the building line setback and 1 metres for the remainder.</td> <td data-bbox="667 461 979 555"></td> </tr> <tr> <td data-bbox="336 555 667 685">Rear Fence</td> <td data-bbox="667 555 979 685"></td> <td data-bbox="667 555 979 685">1.8 metres. Where the rear fence is the primary frontage front fence height provision may apply.</td> </tr> </tbody> </table> <p>Note: A front fence is any fence or like barrier erected forward of the building line setback, whether it is erected on the boundary or not.</p> <p>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:</p> <ul style="list-style-type: none"> i) adjoining land used for business or commercial purposes, in cases where screening from the adjoining business activity is necessary to protect residential amenity; ii) where it is demonstrated that traffic noise and light impacts from car headlights on a public road will create adverse impacts on residential amenity in the absence of the higher fence; iii) necessary for safety, noise mitigation purposes or to enclose the primary open space area. <p>c) Any front fence higher than 1.2 metres must be:</p> <ul style="list-style-type: none"> i) located not less than 50cm inside the front boundary with the area in front of the fence to be landscaped; or ii) 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. 	Table D1.1 – Height of Fences	Fence Location	Height	Front Fence		1.2 metres.	Side Fence	1.2 metres within the building line setback and 1 metres for the remainder.		Rear Fence		1.8 metres. Where the rear fence is the primary frontage front fence height provision may apply.	
Table D1.1 – Height of Fences	Fence Location	Height												
Front Fence		1.2 metres.												
Side Fence	1.2 metres within the building line setback and 1 metres for the remainder.													
Rear Fence		1.8 metres. Where the rear fence is the primary frontage front fence height provision may apply.												
	<p>2. <u>Corner Allotments</u> 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:</p> <ul style="list-style-type: none"> a) the established building line setback to the street; or b) if the existing dwelling is forward of the established building line setback, in line with the existing dwelling. <p>Fencing forward of this alignment must comply with the front fence requirements.</p>													
	<p>3. <u>Sight Lines at Intersections</u> Where a visually solid fence is proposed at the intersection of two public roads, satisfactory sight distance must be provided for traffic using the road. A minimum corner splay of 4m x 4m must be provided in the fence. Landscaping or planting in the splay area</p>													

	Provisions	Compliance
	must not impede driver visibility and must contain low shrubs and ground covers and/or clear trunked canopy shade trees to maintain sight lines.	
D1.2.8	Balconies	
	Objectives	
	1. To ensure that the visual character of balconies is consistent with and does not dominate the design of residential buildings.	
	Performance Criteria	
	Balconies must not dominate the visual character of buildings or development. The design of balconies must be consistent in character with the building and development in terms of materials, colours, dimensions, bulk, scale and proportion.	Proposed balconies do not dominate the visual character and have been designed to be consistent with those of the existing dwellings.
	Prescriptive Measures	
	There are no Prescriptive Measures.	
D1.2.9	Pedestrian and Cycle Access	
	Objectives	
	<ol style="list-style-type: none"> 1. To reduce car dependence through the promotion of alternative forms of transport. 2. To assist in the delivery of Council's adopted bike plan where possible. 3. To provide an expansion of the existing pedestrian/ cycleways to improve connectivity throughout the Shire. 	
	Performance Criteria	
	<ol style="list-style-type: none"> 1. Development applications for residential accommodation of more than 3 dwellings must demonstrate that the pedestrian/cycleway network detailed in Council's adopted Byron Shire Bike Strategy and Action Plan will be incorporated into new development. 2. Refer to Chapter B5 Providing for Cycling and Chapter B13 Access and Mobility. 	The site is located on Ewingsdale Road and adjoins an existing constructed cycleway.
	Prescriptive Measures	
	Refer to Chapter B5 Providing for Cycling and Chapter B13 Access and Mobility.	
D1.2.10	Garage to Habitable Space Conversations	
	Objectives	
	1. To ensure that adequate parking is provided when garages are converted to habitable space.	

	Provisions	Compliance
	Performance Criteria	
	1. Development applications seeking to convert a garage to a habitable space must provide an alternate parking solution in accordance with Chapter B4 and Chapter D1.2.2. 2. Applicants at the head of a cul-de-sac should seek to retain garages and carparking and look for alternate solutions when siting a secondary dwelling or developing habitable space.	Not applicable
	Prescriptive Measures	
	There are no prescriptive measures.	
D1.2.11	Energy Efficiency	
	Objectives	
	1. To reduce greenhouse gas emissions created from residential development 2. To increase thermal comfort and efficiency for residential development	
	Performance Criteria	
	1. Buildings for habitable purposes should seek to incorporate measures to reduce energy consumption, reduce reticulated water consumptions and improve thermal comfort. 2. Where possible, development should seek to fit or retrofit energy efficient fixtures and fittings to reduce greenhouse gas emissions.	
	Prescriptive Measures	
	1. Long term residential accommodation exempt from BASIX must incorporate measures to reduce energy consumption, reduce reticulated water consumption and improve thermal comfort. Details are to be provided on development application plans. Measures are to include but are not limited to: a) Minimum R2.5 ceiling insulation when access is available. b) Hot water system must not be an electric storage tank that is connected to mains power. c) Minimum 3 stars taps and fixtures to be installed in all kitchen, laundry And bathrooms. d) Minimum 4 star air conditioning (if proposed) e) Minimum 5000 litre rainwater tank collecting at least 30% of the development's roof water. 1 garden tap connected to rainwater tank.	BASIX certification accompanies the application.
D1.2.12	Internal access between storeys in residential development	
	Objectives	

	Provisions	Compliance
	1. To ensure connectivity between the floors of Dwelling houses.	
	Performance Criteria	
	1. Dwellings with more than one habitable storey must demonstrate how the residents can easily access both levels of the dwelling in all weather conditions.	
	Prescriptive Measures	
	1. Each habitable floor of a multi-storey dwelling house must be connected by an internal staircase (garage and laundry excluded).	An internal staircase is provided for the dwellings.
D1.6	Multi Dwelling Housing (INCLUDING Manor Houses and Terraces), Residential Flat Buildings and Attached Dwellings	
	Council wishes to encourage variation in medium density housing development by providing simple, flexible controls that are intended to produce more attractive and innovative residential buildings, more imaginative use of outdoor spaces, more privacy and better access to sunlight and shade. This Section applies to the following types of medium density housing development: multidwelling housing (including manor houses and terraces), residential flat buildings and attached dwellings . To facilitate good design a Context and Site Analysis Plan will be required as per Part A13.1.1.	
D1.6.1	Private Open Space Courtyards	
	Objectives	
	1. <i>To ensure that residents have access to private, useable, landscaped open space.</i>	
	Performance Criteria	
	1. Open space courtyards must be provided for each dwelling , with dimensions to suit the projected requirements of the residents and to accommodate outdoor recreation needs. 2. Courtyards must be capable of enabling an extension of the living area of the dwelling . 3. Location of courtyards must take account of outlook and natural features of the site without impacting on neighbouring buildings or open space. 4. Orientation and shading of courtyards must provide for maximum year round use in terms of sunlight.	
	Prescriptive Measures	
	1. Each dwelling must have access to an individual courtyard at ground level having a minimum area of 30m ² and a minimum length and width each of 4 metres, not including any area used exclusively for the circulation or parking of vehicles. The courtyard	Given the design and configuration of the dwellings, each dwelling is provided with a first floor balcony.

	Provisions	Compliance
	<p>must be designed to facilitate access to winter sunshine and must be landscaped to Council's satisfaction.</p> <p>2. The private open space area must not include any areas used for the management of on-site sewage effluent.</p>	
D1.6.2	Open Space Balcony	
	Objectives	
	<p>1. <i>To ensure that residents of above-ground dwellings have immediate access to outdoor private open space.</i></p>	
	Performance Criteria	
	<p>Where dwellings are situated or have access entirely above the ground level of the development, Council may consent to the provision of private open space by means of a balcony which is of sufficient size and which is located so as to provide a usable private outdoor area to Council's satisfaction.</p>	
	Prescriptive Measures	
	<p>1. This provision is only activated when it is not possible to allocate private open space at ground level.</p> <p>2. A private open space balcony must have a minimum area of 15m² and a minimum length and width of 2.4 metres. A private open space balcony must be demonstrated to have appropriate orientation and adequate provision for winter sun and summer shade.</p> <p>3. Balconies and/or eaves may overhang minimum length or width dimensions of private courtyards or other private open space balconies, subject to compliance with the building height plane, and provided that adequate access to winter sun and summer shade is demonstrated for all potentially shaded balconies and/or courtyards.</p>	<p>The proposed balconies for units 13 – 18 are consistent with those provided for the existing development and whilst they comply with the minimum dimension of 2.4m, have an area of 8.6m².</p> <p>The private open space balcony for unit 19 has an area of 8.7m² and complies with the minimum dimension requirements. The balcony for unit 20 has an area of 9.28m².</p> <p>Given the generous outdoor area available and the close proximity to town centre open space, coastal reserves etc., the proposed provision of private open space is considered acceptable in the circumstances. It is also noted that the dwellings proposed contain one and two bedrooms only, and that the 15m² requirement applies to all medium density dwellings regardless of the number of bedrooms and residents.</p>
D1.6.3	Landscaping	

	Provisions	Compliance
	Objectives	
	1. <i>To provide attractive landscapes that reinforce the function of the street, enhance the amenity of dwellings and the built environment, and allow preservation of significant vegetation.</i>	The existing site is landscaped and contains significant natural vegetation proposed for retention.
	Performance Criteria	
	Refer to Chapter B9 Landscaping.	
	Prescriptive Measures	
	Refer to Chapter B9 Landscaping.	
D1.6.4	On-Site Car Parking	
	Objectives	
	1. <i>To provide sufficient convenient car parking for residents and visitors.</i>	
	2. <i>To maintain the amenity of adjoining properties and the efficiency of the road network by providing for car parking on-site.</i>	
	3. <i>To ensure that vehicle access to and from development is safe, effective and enhances visual amenity.</i>	
	Performance Criteria	
	1. Driveway design must provide safe and efficient ingress/egress to and from the site. 2. Resident and visitor car parking must be provided according to projected needs. 3. The design of driveways and parking areas must minimise the visual impact of hard paved areas and long straights, eg by incorporating curves and landscaping.	
	Prescriptive measures	
	1. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding vehicle access, numbers, dimensions and layout of car parking spaces. 2. Large areas of car parking must be broken up by variation in layout, pavement treatment, landscaping, mounding and/or other means to Council's satisfaction.	As addressed in the Engineering Services Report prepared by SDS Civil Enterprises, the proposed car parking complies with the provisions of the DCP.
D1.6.5	Sound Proofing	
	Objectives	
	1. <i>To ensure an adequate acoustic environment for residents.</i>	

	Provisions	Compliance
	Performance Criteria	
	<ol style="list-style-type: none"> 1. Development must be designed to provide a reasonable acoustic environment within dwellings and to minimise the potential for noise impact on the occupants of surrounding dwellings. 2. Where practicable, sources of noise must be sited away from adjoining properties and where necessary must be screened by effective acoustic treatments. 3. Development must be designed to minimise noise and vibration impacts on occupants of surrounding dwellings or buildings. 	
	Prescriptive measures	
	<ol style="list-style-type: none"> 1. Division walls between dwellings must be of sound-resisting construction to Council's satisfaction. 2. The floors in single storey multi dwelling housing, residential flat buildings and attached dwellings must be so constructed or treated as to minimise the conduct of sound between dwellings. 	The proposed dwelling
D1.6.6	Clothes Drying Facilities	
	Objectives	
	<ol style="list-style-type: none"> 1. <i>To ensure that adequate, effective space is provided and provision is made for clothes drying.</i> 	
	Performance Criteria	
	Outdoor clothes drying facilities must be provided to meet projected needs and located to facilitate privacy and sunlight access.	
	Prescriptive measures	
	The minimum provision of clothes drying facilities must be at the rate of 7.5 metres of line per dwelling , located in suitably screened external drying areas.	Noted
D1.6.7	Equity of Access and Mobility	
	Objectives	
	<ol style="list-style-type: none"> 1. <i>To ensure equity of access and mobility to all members of the community.</i> 	
	Performance Criteria	
	There are no Performance Criteria.	
	Prescriptive measures	
	Provision for access and mobility must be made pursuant to Chapter B13 Access and Mobility.	An assessment in accordance with the requirements of the NCC

	Provisions	Compliance
		indicate an adaptable unit is required. It is anticipated Council will condition the consent to this effect.
D1.6.8	Pipes and Vents	
	Objectives	
	1. <i>To optimise the aesthetic appeal of development and to minimise visual impacts of external pipes and vents.</i>	
	Performance Criteria	
	External pipes and vents must be concealed.	
	Prescriptive measures	
	<p>1. All service pipes and vents must be concealed within the walls of residential flat buildings, multi dwelling housing and attached dwellings. Provision of recessed service pipes in external walls may be acceptable where it is demonstrated that the proposal is consistent with the Objectives.</p> <p>2. Access to pipes and vents must be provided as required by relevant authorities.</p>	Consistent
D1.6.9	TV Antennae	
	Objectives	
	1. <i>To minimise adverse visual impacts of TV antennae and dishes, and to ensure the availability of television reception for all dwellings.</i>	
	Performance Criteria	
	Common television antennae and/or dishes must be provided to meet the expected needs of residents.	
	Prescriptive measures	
	Each development must be provided with a common television reception system designed to minimise adverse visual impacts whilst enabling high quality reception for each dwelling .	Noted
D1.6.10	Character	
	Objectives	
	1. <i>To ensure that medium density housing development, including multi dwelling housing (including Manor Houses and Terraces), residential flat buildings and attached dwellings are compatible in character with development in the locality, provides adequate private open space and addresses slope and drainage issues.</i>	

	Provisions	Compliance
	Performance Criteria	
	<ol style="list-style-type: none"> In assessing any proposal for medium density housing 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. Medium density housing development should demonstrate how they are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP. 	
	Prescriptive measures	
	To facilitate good design a Design Verification Statement will be required. In demonstrating how the built form of the development contributes to the character of the local area, the statement should articulate how it is consistent with the relevant locality narrative as contained in the applicable locality chapter in Part E of this DCP.	The proposal provides for alterations and additions to an existing development which will contribute to the character of the local area as is evident from the existing built form on the site.
D1.6.11	Density	
	Objectives	
	<ol style="list-style-type: none"> To ensure that medium density housing development, including multi dwelling housing (including Manor Houses and Terraces) and attached dwellings are compatible in bulk and scale with development in the locality and is consistent with objectives of the zone. To enable a variety of housing types within the Shire. 	
	Performance Criteria	
	<ol style="list-style-type: none"> To provide a range of housing options that are compatible with locality that is suitable within the Low Density Residential Zone. 	
	Prescriptive measures	
	<ol style="list-style-type: none"> Multi dwelling housing and attached dwellings within the R2 Low Density Residential Zone are to have a maximum of 3 dwellings per 1000m² of lot size. Any additional dwellings require a site area of 333m² per dwelling. Prescriptive measure one for this part does not apply if the proposal includes the provision of affordable housing. 	The proposed development complies with the Floor Space Ratio control contained in BLEP14. This control ensures that the density of development on any site is appropriate. It is noted that the FSR has been assessed in relation to the land zoned R2 Low Density only. The FSR based the total site area of the development

	Provisions	Compliance
		<p>is 0.18:1. It is submitted that the provision of the DCP requiring 333m² of site area per dwelling is not consistent with the FSR control applicable to the site and is not appropriate given the location of the site within close proximity to Byron Bay town centre and associated services.</p> <p>The proposal provides for rental accommodation which will provide additional supply for one and two bedroom dwellings.</p> <p>It is considered that the proposed development is appropriate for the site.</p>

5.1.4. State Environmental Planning Policies

A search undertaken on the NSW Planning Portal on 21 February 2024 indicated that the following SEPPs as being applicable to the land.

- SEPP (Biodiversity and Conservation) 2021
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing) 2021
- SEPP (Industry and Employment) 2021
- SEPP (Planning Systems) 2021
- SEPP (Primary Production) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Resources and Energy) 2021
- SEPP (Sustainable Buildings) 2022
- SEPP (Transport and Infrastructure) 2021
- SEPP No 65—Design Quality of Residential Apartment Development

Of these, the following are of particular relevance to the proposed development:

Title: State Environmental Planning Policy (Resilience and Hazards) 2021

Published: 1 March 2022

Abstract:

The aim of this policy is to specify specific arrangements for Coastal management; hazardous and offensive development and remediation of land.

Chapter 2 Coastal management

Part 2.2 Development controls for coastal management areas

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.

Coastal Wetlands and Littoral Rainforest Map



Legend:

- Coastal Wetlands
- Proximity Area for Coastal Wetlands

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.
- (2) Development for which consent is required by subsection (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.
 - (3) Despite subsection (1), development for the purpose of environmental protection works on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map may be carried out by or on behalf of a public authority without development consent if the development is identified in—
 - (a) the relevant certified coastal management program, or
 - (b) a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, or
 - (c) a plan of management under Division 3.6 of the Crown Land Management Act 2016.
 - (4) A consent authority must not grant consent for development referred to in subsection (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.
 - (5) Nothing in this section requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the Biosecurity Act 2015.
 - (6) This section does not apply to the carrying out of development on land reserved under

the National Parks and Wildlife Act 1974 if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.

Comment:

Part of the subject site is mapped as coastal wetlands in accordance with the Resilience and Hazards SEPP. That part of the site zoned R2 Low Density Residential has been extensively reviewed by Council and determined not to contain coastal wetlands. The outcome of that review has yet to be updated in an amendment to the Biodiversity Values mapping and Coastal Wetlands mapping. Byron Shire Council officers have confirmed that the R2 Low Density Residential zone mapping appropriately reflects the unconstrained area of the site. Notwithstanding this, given the proposal provides for development within the mapped area, the proposed development constitutes Designated Development for the purposes of the Act. The subject EIS assesses the proposal in relation to the SEARs issued.

The Ecological Assessment prepared by Biodiversity Assessments and Solutions Pty Ltd states that the Coastal Wetland mapping “contains obvious erroneous spatial errors and is not considered to accurately reflect those values that are specified as the criteria for inclusion, particularly for the area identified as development footprint. The development footprint is predominantly already developed hard surfaces used for driveway access and parking, and a small area (approx. 50m²) of managed residential lawn.” That report concludes that the proposal will not adversely impact on the biophysical, hydrological and ecological of any area that contains coastal wetland as intended by the legislation.

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

Note—

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

- (1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—
 - (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.
- (2) This section does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map.

Coastal Wetlands and Littoral Rainforest Map



Legend:

- Coastal Wetlands
- Proximity Area for Coastal Wetlands

Comment:

A detailed ecological assessment accompanies the application. That report states that as no significant cut or fill is required to accommodate the proposal, it is unlikely there will be any resultant impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, nor will any change to flows to or from this area result from the proposal.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - (b) coastal environmental values and natural coastal processes,
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (f) Aboriginal cultural heritage, practices and places,
 - (g) the use of the surf zone.
- (2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.
- (3) This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Coastal Environment Area Map



Legend: Coastal Environment Area Map

Comment:

The proposed development is unlikely to impact on the integrity and resilience of the biophysical, hydrological and ecological environment. The proposal is sited on the existing disturbed portion of the site and conditions of consent will be acceptable in terms of ensuring that there is no significant adverse impact on the adjoining land.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

Coastal Use Area Map



Legend:

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following—
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that—
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.
- (2) This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Comment:

That part of the site identified as Coastal Use area includes the already developed portion of the site adjacent to Ewingsdale Road. The proposed alterations and additions to the development will not cause an adverse impact in relation to the matters identified in Clause 2.11.

Consultation has been undertaken with the Bundjalung of Byron Bay Corporation (Arakwal) and Tweed Byron Aboriginal Land Council (TBLALC). The report provided by TBLALC concludes that whilst there is a low probability, there remains a possibility of Aboriginal heritage objects and materials being encountered in the course of the proposed works. The report recommends that Aboriginal cultural monitors be engaged during the significant ground disturbing phase of the proposed works.

Chapter 3 Hazardous and offensive development

Chapter 4 Remediation of land

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).

Comment:

The site is not likely to be impacted by contamination from past land use practices. This issue was considered in detail as part of the original Development Application for the site.

Title: SEPP (Sustainable Buildings) 2022

Gazetted: 1.10.23

Abstract:

The aim of this Policy is to ensure consistency in the implementation of design and delivery of sustainable buildings throughout the State.

Comment:

BASIX certification accompanies the application.

Title: State Environmental Planning Policy (Transport and Infrastructure) 2021

Published: 1 March 2022

Abstract:

The aim of this policy is to specify specific arrangements for infrastructure, educational establishments and child care facilities and major infrastructure corridors.

Chapter 2 Infrastructure**2.119 Development with frontage to classified road**

- (1) The objectives of this section are—
- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The proposed development is consistent with the provisions of Clause 2.119. The development will not compromise the effective and ongoing operation and function of Ewingsdale Road, which is an identified classified road. The potential impacts of traffic noise and vehicle emissions on the development are considered to be acceptable. Existing and proposed vehicular access to the land is provided by road other than the classified road. It is submitted that the proposed development will not impact on the safety, efficiency and ongoing operation of the classified road. The proposed development is not likely to be significantly adversely affected by traffic noise, given the speed environment in this location and observations in relation to existing site development.

5.1.5. Certified Draft Plans

No certified draft plans have any particular application to the proposed development.

5.1.6. Specific Environmental Planning & Assessment Act Requirements

Section 4.10 of the Act states:

4.10 Designated development

(cf previous s 77A)

- (1) Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations.
- (2) Designated development does not include State significant development despite any such declaration.

Comment:

As discussed earlier in this report, the Resilience and Hazards SEPP nominates development on land identified as coastal wetlands as comprising designated development for the purposes of the Act.

The proposed additions have been carefully designed to ensure that potential impacts on vegetation, in particular, have been avoided. Given the ecological values of the site and surrounding area, an assessment has been undertaken in relation to the proposed development. This assessment concludes that the proposal will not cause significant impacts to species or ecological communities listed under the NSW Biodiversity Conservation Act 2016 and that the proposal does not trigger the Biodiversity Offsets Scheme (BOS) and a BDAR is not required. The report concludes that potential impacts of the construction occupation phase of the proposal will be negligible and mitigated sufficiently to ensure the direct and indirect impacts on biodiversity values on the remainder of the subject land and wider locality are avoided.

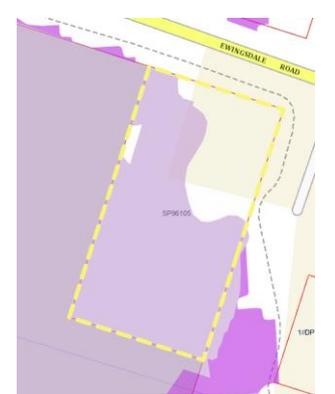
In relation to impacts on the existing built environment, the proposal is not likely to adversely impact on any surrounding development. The proposal will contribute the supply and diversity of rental accommodation within close proximity to services. The proposal to undertake alterations and additions to the existing multi dwelling housing is not considered likely to result in significant adverse impacts on the natural or built environment.

5.1.7. Part 7 of Biodiversity Conservation Act and Part 7A of Fisheries Management Act

Pursuant to Section 1.7, "This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment."

As addressed in the Ecological Assessment prepared by Biodiversity Assessments and Solutions Pty Ltd Pty Ltd, an assessment of the proposal and consultation with Byron Shire Council conclude that the proposal does not trigger the Biodiversity Offset Scheme (BOS) and BDAR is not required. The report concludes the identified development footprint is suitable for the proposal and subsequent development and

Biodiversity Value Map



Legend ■ Biodiversity Values

that the proposal has, within all reasonable expectations, avoided and minimised impacts on the biodiversity values of the subject land, and that the proposal will not result in any significant adverse direct or indirect adverse impacts on the biodiversity values of the subject land or surrounding locality.

5.1.8. Integrated Development Considerations

The proposed development does not comprise integrated development.

5.2. Contribution Plans

Council’s Contributions Plan will apply to the proposed additional units.

5.3. Local Policy Controls

No particular Local Policy Controls are applicable to the proposal.

5.3.1. Coastal Management Act 2016

Section 6 of the Coastal Management Act 2016 provides as follows:

6 Coastal wetlands and littoral rainforests area

- (1) The **coastal wetlands and littoral rainforests area** means the land identified by a State environmental planning policy to be the coastal wetlands and littoral rainforests area for the purposes of this Act, being land which displays the hydrological and floristic characteristics of coastal wetlands or littoral rainforests and land adjoining those features.
- (2) The management objectives for the coastal wetlands and littoral rainforests area are as follows—
 - (a) to protect coastal wetlands and littoral rainforests in their natural state, including their biological diversity and ecosystem integrity,
 - (b) to promote the rehabilitation and restoration of degraded coastal wetlands and littoral rainforests,
 - (c) to improve the resilience of coastal wetlands and littoral rainforests to the impacts of climate change, including opportunities for migration,
 - (d) to support the social and cultural values of coastal wetlands and littoral rainforests,
 - (e) to promote the objectives of State policies and programs for wetlands or littoral rainforest management.

Comment:

The proposed development is consistent with the management objectives for coastal wetlands.



Existing vegetation to the north of the site

As detailed in the Ecological Assessment accompanying the EIS the proposal is not likely to result in adverse impacts on the attributes of the wetland.

No Coastal Management Program has been completed for the locality at this time.

6. Consultation This section provides a summary of the consultation undertaken

6.1. Matters Raised by Council

Pre lodgement consultation was undertaken with Byron Shire Council. This included a site meeting to discuss the wetland mapping and biodiversity values mapping which, as discussed earlier in the report, also applies to land which has subsequently been rezoned R2 Low Density Residential. Council officers provided written communication which is provided at **Appendix K** to this report.



Existing site access from Kendall Street.

6.2. Matters Raised by Agencies

Consultation was undertaken in the preparation of the SEARs by the Department of Planning, Housing and Infrastructure. The SEARs issued also required pre lodgement consultation by the applicant. The responses received in relation to the further consultation undertaken by the applicant are provided in **Appendix K**. All matters raised by agencies in the SEARs response and pre lodgement consultation are addressed in this EIS.

6.3. Consultation with the Local Community

A letterbox drop was undertaken in relation to sites within the immediate vicinity of the proposed development. The letterbox drop comprised information about the proposal and a site plan of the proposed development. No responses were received.

7. Environmental Assessment

This section of the report undertakes an analysis of environmental interactions (particularly those at aspects of S.4.15 (1) (b) and (c) relevant in the subject circumstances) applicable to the proposed development.

7.1. Context and Setting

The site is located on the “edge” of the existing Byron Bay town centre. Existing residential, tourism and commercial development is sited to the east and northeast of the subject site along Shirley Street. The proposal adjoins a service station on the southern side of Kendall Street. The Cumbebin Nature Reserve lies to the south and west of the site. Existing vacant rural zoned land lies to the immediate north of the site on the northern side of Ewingsdale Road.

7.2. Biodiversity / Flora / Fauna

The detailed ecological assessment prepared by Biodiversity Assessments & Solutions Pty Ltd identifies the existing attributes of the land. The report notes that the development footprint contains little habitat that could be considered significant for threatened species as it consists almost entirely of hard surfaces previously developed (approximately 450m²) in a small area (approximately 50m²) of low constraint managed lawn. The site contains isolated native trees including Swamp Mahogany and Tuckeroo within proximity to the development footprint.



Existing wetland to the south west of the site

The report notes however that no native trees will require removal for the proposed development. Isolated trees present in the managed lawn area are of significance from a vegetation community perspective as they are representative of species known as Endangered Ecological Community (EEC) (eg Swamp Oak Floodplain Forest New South Wales North Coast, Sydney Basin and South East Corner Bioregions). However, these species have less significance when isolated or fragmented which vegetation adjacent to the development footprint partly is. Areas of habitat with significance occur in the south western portion of the subject land and the wider locality however, no significant habitat will be impacted directly or indirectly by the proposed development.

The ecological assessment report notes the proposal has been redesigned to significantly reduce impacts with design amendments incorporated to avoid and minimise impacts on adjacent native vegetation completely. The proposed development footprint does contain areas mapped on the biodiversity values map and an area mapped as coastal wetlands under the Coastal Management Act 2016; however, in addition to small scale spatial errors in the mapping, the proposal would not impact on any of the biodiversity or coastal values for which the mapping intent represents. The proposal requires only

the removal of a small amount of managed lawn (approx. 50m²) to accommodate construction of the proposal which is negligible habitat value.

A Test of Significance (ToS) for identified species was undertaken and concluded that the proposal would not cause significant impacts to species or ecological communities listed under the NSW Biodiversity Conservation Act 2016.

The report concludes that the proposal does not trigger the Biodiversity Offset Scheme (BOS) and a Biodiversity Assessment Report is not required. The subject land does not meet the definitions of “core” and no koala habitat or Schedule 3 trees would be impacted by the development. Potential impacts of the construction occupation phases of the proposal will be negligible and can be mitigated sufficiently to ensure that direct and indirect impacts on biodiversity values of the remainder of the subject land and wider community are avoided and subsequently minimised.

The assessment concludes that the identified development footprint is suitable for the proposal and subsequent development and that the proposal has within all reasonable expectations avoided and minimised impacts on the biodiversity values on the subject land. The report concludes that the proposal will not result in any significant deleterious direct or indirect on the biodiversity values of the subject land of the wider locality.

Given the existing concrete pads and proposed development in relation to existing trees on the land, an Arboricultural Impact Assessment report has also been prepared by Northern Tree Care and accompanies the development application. That report includes an assessment of existing trees within close proximity to the development footprint and recommends that the development be constructed as proposed, as it is not considered that the development will cause any of the trees described in the report to become unviable. The report concludes that the development can be undertaken without the requirement to remove any trees for this development. The report also recommends that the trees proposed for retention are appropriately protected during construction.



Existing adjacent service station

7.3. Soils

As identified in Section 8 regarding mitigation measures, an Erosion and Sedimentation Plan will be prepared. This will be subject to a condition of consent and required to be prepared prior to the issue of the Construction Certificate.

7.4. Waste

A Site Waste Management Minimisation Plan has been prepared for both the construction and operational phases of the proposed development. In relation to the operational phase the plan provides for Byron Council curbside collection for the

additional eight (8) units. There is adequate onsite storage provided and adequate capacity on street to provide for the collection of the additional waste generated by the additional units proposed.

7.5. Energy

BASIX certification has been issued in relation to the proposed additional units, and the performance of the units is consistent with the targets for water and thermal performance while exceeding the target for energy.

7.6. Noise & Vibration

The proposed construction is not considered likely to result in significant adverse impacts in terms of noise or vibration. This site is reasonably isolated in relation to existing surrounding development and it is submitted that standard conditions of development consent will be satisfactory in terms of addressing potential noise impacts.



Existing site access from Kendall Street

7.7. Visual Environment

The site is located at the entry to the town centre. The design of the proposed alterations and additions relate well to the existing development and streetscape in terms of bulk, scale and building form.

7.8. Services / Water Supply / Sewerage / Electricity

The engineering report at **Appendix G** indicates that adequate provision is able to be made for services to the land. The site sewer services are provided via a private pressure pump system. Preliminary site investigations identify that as a minimum, additional storage capacity will be required to be added to the current pumping well.

7.9. Access

An engineering services report prepared by SDS Civil Enterprises indicates that the existing access provided by Kendall Street is adequate to cater for the proposed additional units. The existing southern 3m wide concrete driveway will be widened to 5.5m to comply with two way access to *AS2890.1 Parking Facilities – Part 1: Off-street Car Parking*. This southern access will service eight (8) parking spaces.

7.10. Stormwater Drainage

An engineering assessment prepared by SDS Civil Enterprises provides for management of the additional stormwater generated by the proposed alterations and additions to the existing development. Additional stormwater attenuation is proposed to cater for the additions to the existing development.



Existing site development looking north along Ewingsdale Road

7.11. Hazards

The proposed additions have been designed to respond appropriately to site constraints including bushfire hazard, flooding and existing site vegetation. It is submitted that the proposal appropriately responds to these site constraints.

7.11.1. Site Contamination

An assessment of the potential contamination of the site from past land use practice was made in relation to the previous approved DA for the 12 units. No further site investigation is considered required in relation to the proposed alterations and additions.

7.11.2. Bushfire Hazard

The site is identified as subject to bushfire hazard. A bushfire assessment has been prepared by Bushfire Certifiers and identifies that the recommended Asset Protection Zones will be within the previously approved inner protection area. The report contains recommendations in relation to bushfire management including construction standards, Asset Protection Zones, water supply, electricity and gas supply, landscaping and access.

7.11.3. Flooding

The report prepared by SDS Civil Enterprises states that the proposed alterations and additions will match existing site levels and a flood planning level of RL3.1mAhd applies to the site. The proposed additions are located well above the required flood planning level and ground level structures (i.e. garage/ parking will be constructed from flood resilient materials).

7.12. Social and Economic Considerations

The proposed development provides for an increase in the diversity of housing form and provides for one and two bedroom dwellings which are highly desirable within close proximity to the existing town centre. It is submitted that the provision of additional rental stock will make a positive contribution to housing supply in Byron Bay.

7.13. Cultural Considerations

Consultation has undertaken with the Bundjalung of Byron Bay Corporation (Arakwal). To date they have been unable to provide comments in relation to the proposed development application but have advised that they will do so at the earliest opportunity. Any comments received will be responded to in due course.

A report was prepared by TBLALC and accompanies the application at **Appendix K**. The report recommends that whilst there is a low probability, there remains a possibility, of Aboriginal Heritage objects or materials being encountered in the course of the proposed works. That report concludes that subject to recommendations in relation to the undertaking of construction works, the proposed alterations and additions are acceptable.

TBLALC recommends that Aboriginal Cultural monitors be engaged during the significant ground disturbing phase of the proposed works. TBLALC also recommends that any approval include a condition advising the applicant of stop work responsibility should any cultural material be revealed as part of the development works.

7.14. Amenity of the Area

The proposed additions to the existing residential development are not considered likely to result in significant adverse impacts on the amenity of the existing area. The site is well separated from existing residential development and the nature and scale of the proposed land uses are not considered likely to result in significant adverse impacts on the neighbourhood.

7.15. Construction Considerations

The proposed impacts of construction are considered to be able to be adequately addressed via relevant conditions of consent.

7.16. Cumulative Impacts

The proposed minor alterations and additions are not considered likely to result in significant cumulative impacts on the surrounding area.



Existing adjacent service station

8. Mitigation Measures

This section sets out the Mitigation Measures incorporated into the Development Application.

The specialist technical reports incorporate recommended measures to mitigate the potential impacts associated with the proposed development. A summary of the proposed mitigation measures recommended is provided as follows:

Aboriginal Cultural heritage

- TBLALC has reviewed the proposal against its Aboriginal cultural heritage mapping database and cultural knowledge, undertaken a site visit and, based on this, considers that, whilst there is a low probability, there remains a possibility, of Aboriginal heritage objects or materials being encountered in the course of the proposed works;
- TBLALC recommends that Aboriginal cultural monitors be engaged during the significant ground disturbing phase of the proposed works;
- At this stage TBLALC does not consider it necessary to engage an archaeologist for further assessment;
- TBLALC recommends that any approval include a condition advising the applicant of stop work responsibilities should any cultural material be revealed as part of the development works.

Ecology and Biodiversity

- If present, fallen branches and large woody debris in the development footprint or managed residential area would be relocated into adjacent areas of retained vegetation outside of the managed APZ;
- Ensure all machinery/vehicles/personnel enter and exit along the main entry route so additional impacts or disturbance do not occur to adjacent forest vegetation;
- Delineate the work area so that no machinery/vehicles/personnel impact on vegetation or habitat outside of the delineated development footprint area;
- Any disturbance, including ground layer disturbance would be minimised, and confined to the immediate development footprint only;
- If unexpected protected or threatened fauna are encountered during the construction period, then work would stop immediately, and a qualified ecologist or wildlife carer would be contacted;



Existing residential and tourist development to the north east of the site

- If a Koala is present within 30 metres of an area to be cleared or disturbed, then 24 hours must be provided for the animal to disperse of its own volition;
- Contingencies would be required to address the risk of bushfire, including spark arrestors and suspending works in high bushfire danger periods.

Tree Protection:

- Tree protection measures adopted in accordance with the project arborist recommendations;
- The trees retained on the site should be protected during construction in accordance with the recommendations of the Australian Standard *AS 4970-2009 Protection of trees on development sites*. The Standard sets out a Tree Protection Zone that is calculated to be an area around the tree with a radius of 12 x diameter at breast height (DBH). The TPZ has a minimum of 2 m and maximum of 15m. The TPZ should be protected during construction as effectively as is practicable;
- The Standard lists activities that are prohibited in the TPZ. They are:
 - a) Machine excavation
 - b) excavation for silt trenching
 - c) cultivation
 - d) storage
 - e) preparation of chemicals, including preparation of cement products
 - f) parking of vehicles and plant
 - g) refuelling
 - h) dumping of waste
 - i) wash down and cleaning of equipment
 - j) placement of fill
 - k) lighting of fires
 - l) soil level changes
 - m) temporary or permanent installation of utilities and signs and
 - n) physical damage to the tree;
- The proposed construction of the development is planned to be undertaken within the TPZ of some of the trees. In order to ensure that the trees remain viable it is important to protect them during construction as much as is practicable. Any of the activities detailed above should not be undertaken in the TPZ of the tree unless absolutely necessary. A 1.8 m high mesh fence should be erected around the trees. An example of a suitable fence is shown in **Figure 1**. The location of the fence is shown in **Figure 2 and 3**;



Figure 1. Example of a suitable protective fence.

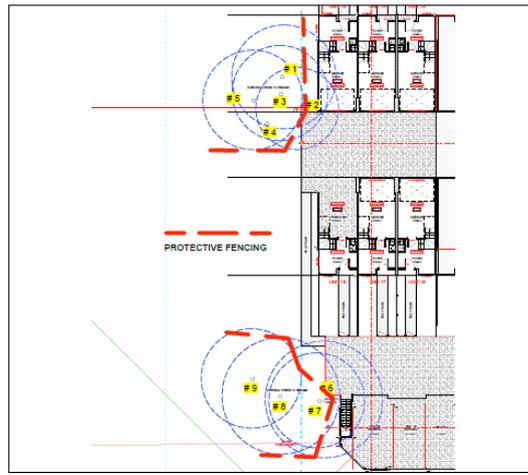


Figure 2. Location protective fence.

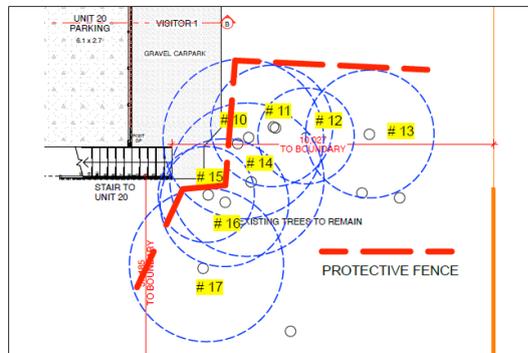


Figure 3.

Location protective fence.

- The protective fencing must be installed before the commencement of works and not removed before the building works are completed;
- Tree protection fencing to maintain structural root zones (SRZs) and tree protection zones (TPZs) would be established and maintained around adjacent native trees as recommended in the arborist report.

Air Quality

- Vehicles and all fuel powered machinery and equipment would be maintained to meet the requirements of the Protection of the Environment Operations (POEO) Act, 1997;

- All vehicles transporting waste or other materials that may produce odours or dust are to be covered during transportation;
- Debris and wastes must be cleaned from the construction area as soon as practical to ensure light-weight material is not disseminated by wind gusts;
- No burning of timber or other wastes would occur;
- Dust suppression measures are to be implemented to minimise or prevent air pollution from dust during high winds; and
- Any stockpiles must be appropriately managed so the potential for air pollution is minimised.

Water quality, hydrology and drainage

- Appropriate sedimentation and erosion controls must be installed and always maintained during construction and operations to limit impacts on adjacent vegetation and waterways;
- All proposed works that has the potential to disturb the ground layer would be undertaken during periods of dry weather;
- All areas where excavation is required and/or vegetation is removed would be stabilised with the most appropriate method;
- Fuels and oils would be stored outside of the prescribed setback from waterways and flood zones;
- Disturbed surfaces would be compacted and stabilised in anticipation of a rain event to reduce the potential for erosion; and
- Erosion and sediment controls would be monitored for effectiveness and maintained until the site is remediated and the soil profile re-stabilised.

Minimal impacts to land use or services

- Notification of any significant impacts to residents or nearby sensitive receivers would be provided at least five days prior to the commencement of construction activities if these activities would be expected to disrupt local residents;
- Any underground services would be clearly identified and marked near the excavation works, if present, before construction is undertaken.

Dangerous goods/chemical and waste management

- Waste destined for recycling or reuse would be stored separately and in a suitable location to avoid mixing with other materials/wastes;
- All residual waste material would be disposed of at a suitably licensed landfill or waste management facility;
- All working areas would be monitored to ensure they are kept free of rubbish and cleaned at the end of each working shift;

- Storage and handling of any dangerous goods must be undertaken in accordance with The Storage and Handling of Dangerous Goods Code of Practice 2005;
- Sufficient spill kits would always be kept on site; and
- Any excavated natural material would be treated in accordance with the requirements of the Protection of the Environment Operations (POEO) Act 1997.

Acid Sulfate Soils Management

- Acid Sulfate Soils to be managed in accordance with the Acid Sulfate Soils Management Plan prepared by Ardill Payne and Associates, dated January 2016.

9. Justification & Feasibility of the Proposal

This section sets out the key elements in support of the proposal.

9.1. Environmental impact generally

The proposed development is not considered likely to result in any significant adverse environmental impacts. The proposed development has been carefully designed and sited to avoid direct and indirect impacts on the ecological values of the site. Appropriate management measures are proposed to mitigate potential impacts on the existing environment.

The proposal complies with the provisions of Planning for Bushfire Protection 2019 and incorporates the retention and ongoing management of existing Asset Protection Zones without the need for further modification to existing site vegetation.



Existing land to the north of the site

The proposed development is considered to be consistent with the public interest as it provides for an increase in housing diversity within close proximity to existing services and facilities.

9.2. Social and Economic

The proposed development will result in positive social and economic impacts providing for an increase in the diversity of rental accommodation within close proximity to existing services and facilities. The proposal will also provide for construction work during that phase of the proposal.

9.3. Biophysical

As detailed in the specialist technical reports accompanying this application, the proposal is unlikely to impact on the existing surrounding sensitive lands including the Cumbebin Nature Reserve. The development footprint has been confined to the disturbed areas of the site.

9.4. Ecologically Sustainable Development

The proposed development is consistent with the provision of ecologically sustainable development as indicated by the accompanying BASIX certification. The proposal provides for appropriate infill development on an existing residential site.

10. Conclusion

This section sets out our concluding remarks in relation to the Development Application.

The proposed development is not considered likely to result in any significant adverse environmental impacts. The proposal provides for a building which has been designed to complement the existing streetscape and will not impact on surrounding development. Most importantly the proposal protects and enhances the existing ecological attributes of the site and surrounding area and employs appropriate management mechanisms to minimise any potential impacts.

It is concluded that the provision of rental accommodation comprising one and two bedroom dwellings within walking distance to the Byron Bay town centre and associated services and facilities is desirable and warrants support.



Existing site development

A SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Department of Planning and Environment

SEARs requirement	Comments
<p>1. proposal details - including (as relevant):</p> <ul style="list-style-type: none"> - the location and scope of the proposal and details of the surrounding environment; - the proposed layout of the site and any staging and timing details; - any relationship to other development proposals in the locality; - anticipated environmental impacts, both direct and indirect; - a plan showing distribution of any threatened flora or fauna species and the vegetation communities on or adjacent to the subject site, and the extent of vegetation proposed to be cleared; - ownership details of any residence and/or land likely to be affected by the proposal; - wetlands, etc, in the locality that may be affected by the proposal; - methods to mitigate unexpected environmental impacts of the proposal; and - the anticipated level of performance in meeting required environmental standards 	<p>The location and scope of the proposal and details of surrounding development are addressed in Section 2 of this report.</p> <p>The proposed layout of the site is detailed in the Architectural Plan Set provided at Appendix B.</p> <p>Anticipated environmental impacts both direct and indirect are addressed in Section 7 and the accompanying Appendices.</p> <p>The Ecological Assessment prepared by Biodiversity Assessments and Solutions Pty Ltd at Appendix C addresses potential ecological impacts of the proposed development and identifies proposed vegetation to be cleared.</p> <p>No residence is likely to be impacted.</p> <p>The Ecological Assessment details the wetlands mapping. Mitigation measures are addressed in Section 8 of this report.</p> <p>Anticipated level of performance in meeting requirements of environmental standards is also addressed in Section 8.</p>
<p>2. strategic and statutory context - including:</p> <ul style="list-style-type: none"> - detailed justification that the proposed alterations and additions are permissible, including consideration of alternatives and 'do nothing' option - a detailed justification for the proposal and suitability of the site for the development - a demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies - document consistency with management objectives of Coastal Management Areas described in the Coastal Management Act 2016 and relevant 	<p>Addressed in Section 4 of this report.</p> <p>Addressed in Section 9 of this report.</p>

SEARs requirement	Comments
<p>development controls described in chapter 2 the State Environmental Planning Policy (Resilience and Hazards) 2021</p> <ul style="list-style-type: none"> - a list of any approvals that must be obtained under any other Act or law before the development may lawfully be carried out - a description of how the proposed alterations and additions integrate with any existing buildings and structures - a description of any amendments to and/ or additional licence(s) or approval(s) required to carry out the proposed development 	<p>Ancillary approvals are addressed in Section 4.3 of this report.</p>
<p>3. infrastructure and utilities -including, in consultation with relevant service providers:</p> <ul style="list-style-type: none"> – assess the impacts of the development on existing utility infrastructure and service provider assets surrounding the site. – identify any infrastructure required on-site and off-site to facilitate the development and any arrangements to ensure that the upgrades will be implemented on time and be maintained. – provide an infrastructure delivery plan, including a description of how infrastructure requirements would be co-ordinated, funded and delivered to facilitate the development 	<p>Addressed in report prepared by SDS Civil Enterprises Pty Ltd provided at Appendix G.</p>
<p>4. soil and water – including:</p> <p>if utility works are required to service the site:</p> <ul style="list-style-type: none"> - an assessment of potential impacts on floodplain and stormwater management and any impact to flooding in the catchment - an assessment of the potential impacts of coastal processes and hazards - identify the existing hydrological functioning of the wetland complex and address the range of potential impacts including, construction impacts, changes to hydrology, flooding, discharge of contaminants/gross pollutants and stormwater runoff. - identifying the measures to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland, in accordance with Clause 2.7 of SEPP (Resilience and Hazards) 2021 - details of sediment and erosion controls - an assessment of potential impacts on the quality and quantity of surface and groundwater resources - details of the proposed stormwater and wastewater management systems (including sewage), water monitoring program and other measures to mitigate surface and groundwater impacts - a description and assessment of impact mitigation and monitoring measures - the potential impacts of the proposed development on acid sulfate soils must be assessed in accordance with the relevant guidelines 	<p>Addressed in report prepared by SDS Civil Enterprises Pty Ltd provided at Appendix G..</p>

SEARs requirement	Comments
<ul style="list-style-type: none"> - address matters raised by BCD at Attachment A 	
<p>5. trees and landscaping– including:</p> <ul style="list-style-type: none"> – assess the number, location, condition and significance of trees to be removed and retained and note any existing canopy coverage to be retained on-site – provide a detailed site-wide landscape plan, that: <ul style="list-style-type: none"> o details the proposed site planting, including location, number and o species of plantings, heights of trees at maturity and proposed canopy coverage (as a percentage of the site area). o provides evidence that opportunities to retain significant trees have been explored and/or informs the plan. 	<p>Addressed in report provided by Northern Tree Care and Ecological Assessment provided at Appendix E.</p> <p>An Ecological Assessment prepared by Biodiversity Assessments and Solutions Pty Ltd is provided at Appendix C.</p>
<p>6. traffic and transport – including:</p> <ul style="list-style-type: none"> - details of road transport routes and access to the site - road traffic predictions for the development during construction and operation - an assessment of impacts to the safety and function of the road network and the details of any road upgrades required for the development 	<p>Assessment provided in report by SDS Civil Enterprises Pty Ltd provided at Appendix G.</p>
<p>7. flood risk – including:</p> <ul style="list-style-type: none"> – identify any flood risk on-site having regard to adopted flood studies, the potential effects of climate change, and any relevant provisions of the NSW Floodplain Development Manual. – assess the impacts of the development, including any changes to flood risk on-site or off-site, and detail design solutions and operational procedures to mitigate flood risk where required. – any flood risk assessment should determine (if relevant): <ul style="list-style-type: none"> o the flood hazard in the area and if the development is compatible with the hazard; o address the impact of flooding on the proposed development, and the and adjacent lands/properties; o whether the proposal incorporates appropriate measures to manage risk to life from flood; o whether the proposal is likely to result in unsustainable social and economic costs to the community as a consequence of flooding; o the implications of flooding over the full range of potential flooding, including the probable maximum flood level. 	<p>Assessment provided in report by SDS Civil Enterprises Pty Ltd provided at Appendix G.</p>
<p>8. biodiversity – including:</p> <ul style="list-style-type: none"> - an assessment of the impacts of the proposed development on biodiversity values to determine if the proposed development is “likely to significantly 	<p>Addressed in Ecological Assessment prepared by Biodiversity Assessment and</p>

SEARs requirement	Comments
<p>affect threatened species” for the purposes of Section 7.2 of the Biodiversity Conservation Act 2016 (BC Act)</p> <p>- Where appropriate, likely impacts (both direct and indirect) of the proposed development on any adjoining and/or nearby NPWS estate reserved under the National Parks and Wildlife Act 1974 should be considered, with reference to the Developments adjacent to National Parks and Wildlife Service lands Guidelines for consent and planning authorities (DPIE 2020)</p>	<p>Solutions provided at Appendix C.</p>
<p>9. coastal hazards and coastal management areas – including:</p> <p>– an assessment of potential effect of coastal process and coastal hazards including the impacts of sea level rise (on the proposed development itself and arising from the proposed development)</p> <p>– address the requirements of SEPP (Resilience and Hazards) 2021 Chapter 2 Coastal management.</p> <p>– consideration of the effects of coastal processes and hazards (within the meaning of the Coastal Management Act 2016), impacting the site under the following scenarios:</p> <p>a. current sea level</p> <p>b. projected future climate change (including sea level rise) scenarios that have been peer-reviewed and widely accepted by scientific opinion.</p> <p>– document consistency with management objectives of Coastal Management Areas described in the Coastal Management Act 2016 and relevant development controls described in the State Environmental Planning Policy (Resilience and Hazards) 2021</p>	<p>No coastal hazard mapping applies to the subject site.</p> <p>Addressed in Section 5.1 of this report.</p> <p>No coastal hazard applies to the subject site.</p> <p>Addressed in Section 5.1 of this report.</p>
<p>10. bushfire – including:</p> <p>- an assessment of the risk of bushfire, including addressing the requirements of Planning for Bush Fire Protection 2019 (RFS).</p> <p>- consideration of any matters raised in consultation with NSW RFS.</p>	<p>A report has been prepared by Bushfire Certifiers in relation to the bushfire mapping of the land provided at Appendix D.</p>
<p>11. heritage – including:</p> <p>- an assessment of Aboriginal and non-Aboriginal cultural heritage</p>	<p>No non-Aboriginal cultural heritage issues arise from the proposed development. Consultation has been undertaken with the Arakwal Corporation and TBLALC as detailed in Section 6 of the EIS.</p>
<p>12. noise and vibration – including:</p> <p>- a description of all equipment proposed for use at the site and related potential noise and vibration sources during construction and operation, including road traffic noise</p> <p>- a description and appraisal of noise and vibration mitigation and monitoring measures</p>	<p>Noise and equipment proposed for use during construction comprises standard building equipment, e.g. nail guns, saws, electric drills etc. Standard conditions of development</p>

SEARs requirement	Comments
	consent are adequate to address any potential impacts in this regard.
<p>13. contamination – including:</p> <ul style="list-style-type: none"> - In accordance with Chapter 4 of SEPP (Resilience and Hazards) 2021, assess and quantify any soil and groundwater contamination on the site and the surrounding area and demonstrate that the site is suitable (or will be suitable, after remediation) for the development. 	<p>The potential contamination of the land from past land use practice was considered extensively in the assessment of the original development application relating to existing site development.</p>
<p>14. cumulative impacts – including:</p> <ul style="list-style-type: none"> - the cumulative impacts, including both construction and operational impacts, from all clearing activities and operations, associated edge effects and other indirect impacts on cultural heritage, biodiversity and NPWS Estate in accordance with the Environmental Planning and Assessment Act 1979. - The cumulative impacts, including both construction and operational impacts, of the proponent’s existing proposals and other proposals and associated infrastructure (such as access tracks etc.) as well as the cumulative impacts of the proposed development in the context of other proposals located in the vicinity 	<p>Addressed in the Ecological Assessment prepared by Biodiversity Assessment and Solutions provided at Appendix C.</p>

C ECOLOGICAL ASSESSMENT

Biodiversity Assessments and Solutions Pty Ltd Pty Ltd

I WASTE MINIMISATION AND MANAGEMENT

J ESTIMATED COST OF PROPOSAL
