

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	Development Application No. 10.2022.181.1
Applicant	Balanced Systems Planning Consultants
Property	510 Goonengerry Road MONTECOLLUM LOT: 201 DP: 1271944
Development	Multiple Occupancy consisting of Nine (9) Dwelling Sites, Associated Associated Infrastructure, Tree Removal and Environmental Enhancement Works
Determination	Deferred commencement Consent Authority - Byron Shire Council
Date of determination	16 May 2023
Date on which the consent lapses	25 May 2028

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of deferred commencement consent using the power in section 4.16(3) of the EP&A Act, subject to the conditions set out in this notice.

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

SCHEDULE 1. DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

The following condition concerns matters as to which the Council must be satisfied before the consent can be issued:

1. Deferred Commencement Consent

This consent does not operate until Council is satisfied as to the following matter:

(a) Approval required under Section 138 of the Roads Act 1993

Consent from Council must be obtained under Section 138 of the *Roads Act 1993* for road widening and driveway consolidation works in Goonengerry Road, as follows:

Consolidated driveway

- (a) A consolidated driveway servicing numbers 506 and 510 Goonengerry Road, designed and constructed in accordance with Type 1 driveway of TfNSW drawing Typical Rural Property Access dated 19/05/2020 version 2. The works are to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities.

Basic Right Turn treatment

- (b) Provision must be made to provide (i.e., design & construct) a Basic Right Turn (BAR) treatment on a two-lane rural road in accordance with Figure A6 in Austroads Guide to Road Design Part 4: Intersections and Crossings – General (2021).



- (c) BAR treatments and any associated road widening and/or tree removal works are to be carried out generally in accordance with Plan C1 (Revision C) titled “Type BAR – West Widening & Reconstruct”, by SDS Civil Enterprises, dated April 2022 as referred to in Condition 1 of this development consent.
- (d) The above plan may be subject to change or modification as necessary to achieve compliance with the relevant engineering standards and Council requirements. If the proposed road works (e.g., earth batters, retaining walls, rock mattresses etc.) will encroach onto neighbouring private land, it will be necessary to obtain landowners consent from the affected landowner to carry out the proposed road widening.

Removal of Camphor laurel trees and retention of macadamia saplings.

- (e) The macadamia trees identified on Plan C1 referred to in point (c) have been identified as *Macadamia tetraphylla* which is a vulnerable species listed in Schedule 1 of the *Biodiversity Conservation Act 2016*. No *Macadamia tetraphylla* are permitted to be removed under this development consent and must not be removed as part of any road works authorised under Section 138 of the Roads Act 1993.
- (f) The plans and specifications submitted for approval with the Roads Act application must identify all *Macadamia tetraphylla* within proximity of the proposed road works and illustrate their tree protection zones in accordance with Australia Standard 4970–2009 Protection of trees on development sites. Measures for protecting trees (fencing etc.) during construction of the proposed road works must be identified on the plans in accordance with AS2970-2009.
- (g) Plans and specifications submitted for approval of the Roads Act application are to be in accordance with Council’s current Design & Construction Manuals.

Note 1: The calculation of the C value on curves requires additional curve widening.

Note 2: Road reserve widening (if required) is to be taken on the development side only.

Note 3. Any encroachments affecting the road reserve must be removed or relocated wholly within the development boundaries. Any encroachments of roadworks onto private land are to be dedicated as “Road Widening” at no cost to Council.

Evidence is required to be submitted of compliance with the above condition, sufficient to satisfy the Council as to those matters, within 2 years of the date of this Notice of Determination. If satisfactory evidence is produced in accordance with this requirement, the Council will give written notice to the applicant of the date from which this consent commences operation.

If Council has not notified the applicant within a period of 28 days after the applicant’s evidence is produced to it, the Council is, for the purposes only of Section 97 of the Environmental Planning and Assessment Act 1979, taken to have notified the applicant that Council is not satisfied as to those matters on the date on which that 28-day period expires.

Evidence of the above relevant matter(s) must be produced to the consent authority, within Two (2) Years of the date of the determination, otherwise the consent will lapse.

Under section 88(3) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the

applicant's evidence, the consent authority is taken to have notified the applicant that is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

Reason for conditions

The conditions imposed have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment and the amenity of the neighborhood.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Signed on behalf of the Consent Authority

Benjamin Grant
Planner

SCHEDULE 2. CONDITIONS OF CONSENT

Parameters of consent

1. Approved plans and supporting documentation

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

Plan No.	Plan Title	Drawn by	Dated
Illustration 7. Version A	Proposed Multiple Occupancy Layout Details	Balanced Systems	January 2022
Illustration 9 Version A	M.O. Management	Balanced Systems	January 2022
Version 1	Draft Rural Land Sharing Management Plan	Balanced Systems	January 2022
	Ecological Assessment and Vegetation Management Plan	Balanced Systems	January 2022
C1 Rev C	Type BAR West Widening & Reconstruct	SDS Civil Enterprises	April 2022

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

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

2. Support for neighbouring buildings

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made or builder must:

- a. Inform the neighbouring property owner immediately.
- b. Engage a structural engineer to determine any remedial works that may need to be undertaken.
- c. Preserve and protect the adjoining building from damage.
- d. If necessary, underpin and support the building in an approved manner.

3. Conditions prescribed by the Regulation

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 2** of this consent.

4. **Bush fire safety measures**

This land is identified as being designated bush fire prone land and under section 4.14 of the Environmental Planning and Assessment Act 1979, Council must be satisfied prior to making a determination for development on bush fire prone land that the development complies with “Planning for Bush Fire Protection 2019”.

The development is approved subject to the following conditions:

Access – Property Access

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

The main 'arterial' road within the subject property, from Goonengerry Road to the existing dwelling, shall be a minimum 5.5 metres wide and comply with the following requirements of Table 7.4a of 'Planning for Bush Fire Protection 2019':

- a) property access roads are two-wheel drive, all-weather roads.
- b) the capacity of road surfaces is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes).
- c) a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches.
- d) a suitable turning area in accordance with Appendix 3 shall be provided in proximity of the existing dwelling.
- e) curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress.
- f) the minimum distance between inner and outer curves is 6m.
- g) the cross fall is not more than 10 degrees; and
- h) maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

That part of the access that traverses the 'avenue of eucalypts' (generally 20m to 240m from Goonengerry Road) shall include the following additional measures:

- i) the land upslope of the access for a distance of 20m or to the property boundary, whichever is the lesser, and downslope for a distance of 26m shall be maintained as an inner protection area in accordance with Appendix 4 of Planning for Bush Fire Protection 2019; and
- j) a formal passing bay, being 6m wide by 20m long (inclusive of the main property access road), shall be provided to each end of the 'avenue of eucalypts'.

5. **Developer Contributions to be paid**

Contributions set out in the schedule below are to be paid to Council prior to the release of a construction certificate or complying development certificate for any dwelling that is the subject of an approval on the identified dwelling sites.

Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at www.byron.nsw.gov.au or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment**. The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

6. **Limit of consent**

This development consent only applies to Lot 201 DP 1271944 and does not extend to the unmade road reserve which trisects the southern portion of the allotment. No development, building works, uses or environmental restoration works are permitted in the road reserve areas under this development consent.

7. **Construction certificate required for road construction**

A construction certificate is required for the construction of the road works and associated support structures in Goonengerry Road, along with the internal access road and associated passing bays and turn around bays necessary for firefighting access.

The following conditions are to be complied with prior to issue of any construction certificate or the commencement of any works associated with the multiple occupancy

8. **Decommissioning of old dairy bales**

The old dairy bales building located near the northern boundary must be decommissioned and converted to a non-habitable farm building. Decommissioning works must include at a minimum: removal of all kitchen/cooking facilities and benches, removal of laundry facilities, removal of bathrooms and removal all non-structural internal partitions.

The above decommissioning works must be completed to Council's satisfaction prior to the issue of any construction certificate or commencement of any works associated with the multiple occupancy.

9. **Rural Land Sharing Management Plan**

An amended Rural Land Sharing Management Plan (RLSM) must be submitted to and approved by Council prior to the issue of a construction certificate and/or prior to the commencement of any works. The amended RLSM must be based on, and generally in accordance with, the Draft Rural Landsharing Management Plan by Balanced Systems Planning Consultants (Version 1), dated January 2022, and shall include, but not necessarily be limited to, the following provisions:

a) **Vegetation management**

Vegetation on the site is to be managed at all times in accordance with the approved Vegetation Management Plan and conditions of consent. Measure for protecting and enhancing endangered species and ecological communities on the site shall be

implemented. No tracks, roads, buildings, residential, or agricultural uses are permitted within the “Eastern Gully”, “Western Gully” or “Central Ridge” areas identified in approved Vegetation Management Plan.

a) Onsite Wastewater Management

The owner of each dwelling in the multiple occupancy will be responsible for the management and servicing of their OSMS systems and any associated greywater systems or composting toilets, etc. The effluent management system associated with any farm buildings, sheds, workshops, or other future community buildings etc. will be the responsibility of community members.

b) Water management

All rainwater harvesting systems and storage tanks used for providing potable water must fitted with a first-flush device. Each dwelling in the multiple occupancy must have rainwater storage tanks with a capacity of at least 40kL in addition to any other water storage required for bushfire protection purposes.

c) Waste management

Garbage bins for each dwelling must be stored within a secure location within each dwelling site or stored in the central bin storage area for the multiple occupancy. Garbage bins must be placed in a neat and orderly manner on/near Goonengerry Road on days for Council garbage collection and shall be removed promptly following garbage collection.

d) Number and use of dwelling sites

The multiple occupancy is limited to a maximum of one (1) dwelling per site and a maximum of nine (9) dwellings in total. Dual occupancy and secondary dwellings are prohibited within the multiple occupancy. Dwellings must not be used for holiday letting, short-term rental accommodation or tourist and visitor accommodation.

e) Inclusion of existing dwelling in multiple occupancy

The land around the existing dwelling house is to be identified as a separate dwelling site within the multiple occupancy. The site is to be separately numbered as site “C4”.

f) Building design

Building materials and colours, (including roof colours) shall be natural earthtones consistent with the character of the surrounding natural environment.

g) Bushfire Management

Provisions for bushfire management in accordance with the conditions of consent.

h) Keeping of animals

A restriction on the keeping of cats and dogs within the property.

The amended Rural Land Sharing Management Plan (as approved by Council) shall be provided for approval as part of the construction certificate application.

10. Payment of security deposits

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Security deposit	\$ 10,000
Inspection fee	\$200

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

11. Landscaping Plan

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014. Species identified in Chapter B9 of Development Control Plan 2014 are to be planted wherever possible.

The landscaping plan must indicate:

- a) A dense landscaped screen shall be planted, sufficient to provide privacy between Sites B2, B3 and the dwelling located at 602 Goonengerry Road.
- b) A visual planted buffer shall be planted on the north-western boundary between the subject site and the access driveway for 506 Goonengerry Road.
- c) Forty (40) local native trees are to be planted on the site to account for the trees removed and potential impacts on biodiversity.
- d) proposed location for planted shrubs and trees
- e) botanical name of shrubs and trees to be planted
- f) mature height of trees to be planted
- g) location of grassed and paved areas, and
- h) location of trees identified for retention in the development application plans.
- i) The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate.

Note 1. Refer to the marked-up site plan for the intended location of vegetative buffers.

Note 2. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2019.

12. Geotechnical report required – building works

A certificate from a professional Engineer experienced in Geotechnical Science is to be provided to the Principal Certifying Authority, certifying that the site is stable and will not be affected by landslide or subsidence at, above or below the site when the building is erected. The certificate must be prepared in accordance with AS 1726.

13. Geotechnical report required – engineering works

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that:

- a) the design of the civil engineering works, including retaining walls and/or cut & fill batters, has been assessed as structurally adequate,
- b) the civil engineering works will not be affected by landslip or subsidence either above or below the works; and
- c) adequate drainage has been provided

14. Geotechnical report required – soil classification

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of AS2870.

15. Sediment and Erosion Control Management Plan required

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

16. Stormwater drainage – connection to existing drainage system

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with AS/NZS 3500.3:2003, *Plumbing and drainage, Part 3: Stormwater drainage*. All stormwater drainage for the development must be conveyed by a gravity system to the existing stormwater drainage system within the site. Such plans and specifications must be approved as part of the Construction Certificate.

17. Public Safety Management Plan required

Prior to issue of the commencement of works or issue of a construction certificate, consent from Council must be obtained for a Public Safety Management Plan for those works within the road reserve pursuant to Section 138 of the Roads Act 1993. This public safety management plan is to include provision for (but not be limited to):

- a) a pedestrian barrier, alternative footpaths and ramps as necessary;
- b) parking space for tradesman's vehicles, where such vehicles must be located near the site due to tools and equipment contain within the vehicle;
- c) Removal of any such hoarding, fence or awning as soon as the particular work has been completed.

The temporary use of Council land/road reserve to enable construction work or an event is subject to fees in accordance with Council's adopted fees and charges. The use fee must be paid upfront prior to use and will generally be required to be paid prior to issue of the Council's consent for such use.

18. Traffic Management Plan (TMP)

Prior to the commencement of works or issue of a construction certificate, consent from Council must be obtained for a Traffic Management Plan (TMP) pursuant to Section 138 of the Roads

Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The TMP is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The report must incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TMP and associated traffic guidance scheme/s must be prepared by a suitably qualified Transport for NSW accredited person.

19. Traffic Guidance Scheme (TGS)

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Guidance Scheme (TGS) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction. The TGS is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TGS must be prepared by a suitably qualified Transport for NSW accredited person.

20. Internal access, passing bays and turnaround areas

The application for a Construction Certificate is to include plans and specification that indicate access, parking, and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking. Plans are to include, but not be limited to, the following items:

The following works and or details of the following:

- Provision must be made to provide a turnaround area
- The width of the main internal driveway from Goonengerry Road to the existing dwelling, shall be a minimum 5.5 metres wide.
- The width of driveways branching from the main internal driveway and servicing individual allotments must be 4.0m minimum
- Details to demonstrate compliance to Chapter B8 of BDCP

Standard Requirement:

- a) minimum 150mm compacted pavement.

- b) site conditions affecting the access.
- c) existing and design levels.
- d) longitudinal sections.
- e) cross sections; and
- f) drainage details.

RFS Requirement: RFS Letter dated 19 August 2022 with reference no DA20220609008439-Original-1

The main 'arterial' road within the subject property, from Goonengerry Road to the existing dwelling, shall be a minimum 5.5 metres wide and comply with the following requirements of Table 7.4a of 'Planning for Bush Fire Protection 2019':

- a) property access roads are two-wheel drive, all-weather roads.
- b) the capacity of road surfaces is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes).
- c) a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches.
- d) a suitable turning area in accordance with Appendix 3 shall be provided in proximity of the existing dwelling.
- e) curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress.
- f) the minimum distance between inner and outer curves is 6m.
- g) the cross fall is not more than 10 degrees; and
- h) maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Such plans and specifications must be approved as part of the Construction Certificate.

Note. The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

21. **Fibre-ready facilities and telecommunications infrastructure**

Prior to the commencement of works or issue of a construction certificate, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

22. Native trees to be identified on plans

All native trees within 10m of any building work shall be illustrated on all relevant construction plans as requiring protection, along with their Tree Protection Zones, calculated in accordance with AS4970-2009 – Protection of Trees of Development Sites.

The following conditions are to be complied with prior to the commencement of any works

23. Traffic Management Plan to be implemented

The approved Traffic Management Plan is to be implemented.

24. Tree protection measures to be implemented

All trees to be protected must have adequate tree protection measures (i.e., fencing etc.) implemented in accordance with AS4970-2009 Protection of trees on development sites prior to the commencement of any works.

25. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians, and adjoining property. The public liability insurance cover, for a minimum of \$20 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

26. Toilet facilities

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

27. Dilapidation reports required

Prior to the commencement of any excavation works requiring rock drilling, blasting or breaking, a pre-construction Dilapidation Report is to be submitted to Council detailing the current condition of all adjoining buildings, infrastructure and roads.

A second Dilapidation Report must be submitted to Council, prior to occupation of the building (whole or partial), to ascertain if any structural damage has occurred to any adjoining building, infrastructure or roads.

28. Erosion and Sediment Control Management Plan to be implemented

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e., by permanent vegetation cover or hard surface).

Note: Council may impose on-the-spot fines for non-compliance with this condition.

The following conditions are to be complied with during any building or construction works

29. Hours of work

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7am to 6pm on Monday to Friday.
- 8am to 1pm on Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

30. Construction noise

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

31. Signs to be erected on building and demolition sites

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

32. Builders rubbish to be contained on site

All builder's rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

33. Fill to be retained on the subject land

Fill material must not encroach onto any adjoining land.

34. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

35. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

36. Tree protection measures to be maintained

All tree protection measures shall be maintained in accordance with AS4970-2009 Protection of trees on development sites.

37. Demolition

Any required demolition works must be undertaken in accordance with the relevant requirements of Australian Standard AS 2601–1991: The Demolition of Structures published by Standards Australia, and the WorkCover Authority of NSW.

38. All excavated soils to be disposed of off-site

All excavated soils to be disposed of off-site and in accordance with NSW EPA *Waste Classification Guidelines* (2014) and approved environmental management plans.

39. Removal of demolition and other wastes

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the [NSW EPA Waste Classification Guidelines \(2014\)](#)

40. Excavated natural materials and demolition waste disposal

Any and all excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a [NSW Protection of The Environment Operations Act s143 Notice](#).

41. Aboriginal relics

While demolition or building work is being carried out, all such works must cease immediately if

a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

The following conditions are to be complied with prior to the issue of a construction certificate or complying development certificate for any dwelling within the multiple occupancy

42. Vegetation Management Plan – Year 1 works to be implemented

All works required as a minimum up to Year 1 of the approved Vegetation Management Plan (VMP) are to be completed prior to the release of a construction certificate or complying development certificate for any dwelling within the approved multiple occupancy.

A Certified Progress Report from a qualified and experienced ecologist and /or Bush Regenerator must be submitted to the Registered Certifier demonstrating that all actions for Year 1 have been completed.

43. Landscaping works to be established

All landscaping works, compensatory plantings and vegetation buffers required under this consent are to be established prior to the release of a construction certificate or complying development certificate for any dwelling within the approved multiple occupancy.

A certificate from a suitably qualified landscape architect / architect / ecologist must be provided to the Registered Certifier confirming that the site has been landscaped in accordance with the approved plans and conditions of consent.

44. Access and parking areas to be completed

The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.

45. Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a. Clear of buildings and infrastructure,
- b. Clear of effluent disposal areas,
- c. Not concentrated so as to cause soil erosion,

- d. Not directly to a watercourse, and
- e. Not onto adjoining land.

46. Compliance with bushfire conditions

Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.

47. Works in accordance with Roads Act 1993

All works associated with the approvals issued under the Roads Act Consents, including upgrades to Goonengerry Road and the site driveway entrance are to be completed prior to the release of an occupation certificate.

48. Completion of all works

All works, including internal driveways, passing bays, and turning bays are to be completed prior to the release of an occupation certificate.

49. Certificates for Engineering Works

The submission of all test certificates, together with a certificate from the suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans, prior to the release of an occupation certificate.

50. Electricity supply certificate

Written evidence from an electricity supply authority stating that arrangements have been made for the provision of electricity supply for the relevant dwellings prior to the release of an occupation certificate.

51. Telephone Supply Certificate

Written evidence from Telstra stating that satisfactory arrangements have been made for the provision of telephone supply and internet for the development prior to the release of an occupation certificate.

52. Telecommunications & electrical infrastructure

Prior to the issue of a construction certificate or complying development certificate for any dwelling within the multiple occupancy, evidence must be provided to the Registered Certifier confirming that satisfactory arrangements have been made for the provision of telecommunication services including internet connection and electricity supply for the development in accordance with Chapter B3 Services of Byron Shire Development Control Plan 2014.

53. Works to be completed

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a construction certificate or complying development certificate for any dwelling within the multiple occupancy.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

The following conditions are to be complied with at all times

54. Rural Landsharing Management Plan

The subject development is to be operated in accordance with the terms of the approved Rural Landsharing Management Plan at all times. In the event of an inconsistency between the Rural Land Sharing Management Plan and a condition of this consent, the condition shall prevail to the extent of the inconsistency.

55. Vegetation buffers to be maintained

The following landscaping shall be established and maintained at all times (as detailed in the approved landscaping plan):

- A dense landscaped screen, sufficient to provide privacy between Sites B2, B3 and the dwelling located at 602 Goonengerry Road.
- A landscape buffer shall be established on the north-western boundary between the subject site and the access driveway for 506 Goonengerry Road.
- Eighty (80) local native trees are to be planted on the site and maintained to account for the trees removed in the road reserve and potential loss of biodiversity.

Maintenance of landscaping includes but is not limited to watering, weeding and the replacement of failed plant material.

56. Ecological restoration works

Ecological restoration works must be undertaken and continued until the performance criteria have been achieved in accordance with the approved Vegetation Management Plan for the entirety of the time-period set out in the plan, during which annual monitoring reports must be submitted to Council for approval.

57. Protection of vegetation for conservation purposes

All native vegetation within “Eastern Gully, Western Gully and Central Ridge” as identified in the approved Vegetation Management Plan, is to be protected in perpetuity for the purposes of environmental conservation.

Please note. Clearing of native vegetation is not permitted in the above-mentioned Vegetation Management Zones under the NSW Rural Fire Services 10/50 Clearing Code or the Rural Boundary Clearing Code for New South Wales.

58. Dwellings per approved house site

A maximum of one dwelling is permitted per dwelling site. No dual occupancy or secondary dwellings are permitted.

59. Garbage bins

Garbage bins are to be stored in a secure location within each dwelling site or stored within the central bin storage area. Bins shall be kept in an orderly manner in/near Goonengerry Road for Council garbage collection and promptly removed following collection.

60. Must not interfere with the amenity of the neighbourhood

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise.

61. Use of machinery shed

The existing machinery shed located near Site B1 must not be used as a habitable domicile and shall not contain a bathroom, laundry or kitchen, or any fixtures or furnishings that would enable the building to be used for residential accommodation.

62. Use of old dairy bales

The old dairy bales building located near the northern boundary of the property must not be used as a habitable domicile and shall not contain a bathroom, laundry or kitchen, or any fixtures or furnishings that would enable the building to be used for residential accommodation.

63. Dwellings not to be used for short-term rental accommodation

All dwellings and any other buildings within the multiple occupancy must not to be used for holiday-letting, short-term rental accommodation or tourist and visitor accommodation.

SCHEDULE 1. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Condition relating to maximum capacity signage
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 2. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.

Statement of Reasons

- | |
|---|
| The proposed development complies with the provisions of Byron Local Environmental Plan 2014. |
| The proposed development complies with relevant State Environmental Planning Policies |
| The proposed development complies with relevant provisions of Development Control Plan 2014 |
| The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations. |
| The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality. |
| The proposed development is considered suitable for the proposed site. |
| The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application. |
| The proposed development is unlikely to prejudice or compromise the public interest. |

SCHEDULE 3. NOTES

Vegetation buffers

It is recommended that discussions are held with neighbouring landowners regarding the species and location of trees used to establish vegetative buffers prior to the commencement of works.

S7.11 Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.**

Section 7.11 contributions Schedule						
Rural South						
Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		9	@	1 SDU	=	9
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	8
		No further indexation. Contributions are at the Ministerial cap.				
Local Open Space & Recreation	(OS-RS)	8.00	SDU @	\$ -	=	\$ -
LGA Wide Open Space & Recreation	(OS-SW)	8.00	SDU @	\$ 828.74	=	\$ 6,629.91
LGA wide Community Facilities	(CF-SW)	8.00	SDU @	\$ 1,213.77	=	\$ 9,710.20
Local Community Facilities	(CF-RS)	8.00	SDU @	\$ -	=	\$ -
Bikeways & Footpaths	#N/A	8.00	SDU @	\$ -	=	\$ -
Shire Wide Bikeways & Footpaths	(CW-SW)	8.00	SDU @	\$ 89.03	=	\$ 712.25
Urban Roads	#N/A	8.00	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	8.00	SDU @	\$ 250.77	=	\$ 2,006.17
Rural Roads	(R-RS)	8.00	SDU @	\$ 16,364.15	=	\$ 130,913.20
Administration Levy	(OF-SW)	8.00	SDU @	\$ 1,253.53	=	\$ 10,028.28
Total						\$ 160,000.00

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing.

Application for a Construction Certificate must be made online using the [NSW Planning Portal](#).

Principal Certifying Authority:

Work must not commence until the applicant has:-

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).

General Advisory Notes**Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on Phone Number 1800 810 443.

The Environmental Planning and Assessment Act 1979 requires you to:

1. For building works, obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate.

For subdivision works, obtain a **Subdivision Works Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Subdivision Works Certificate.

An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the above Certificates.

All applications must be lodged via the [NSW Planning Portal](#).

2. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully commence works** without complying with this requirement. Appointment must be made through the [NSW Planning Portal](#)
3. Give Council at least two days' notice of your intention to commence the erection of a building before commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

All applications must be lodged via the [NSW Planning Portal](#).

You may also need to:

5. Lodge an Application for Subdivision to obtain a Subdivision Certificate if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain Strata Title Subdivision under the relevant Strata Titles Act if strata title of the development is proposed.
6. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

BYRON SHIRE COUNCIL
Development Application
APPROVED PLAN
DA No. 10.2022.181.1
Date: 16 May 2023

Planted Visual Buffer to be established
between sites B2 and B3 and 602
Goonengerry Road in accordance with
Conditions 11, 43, and 55 of
development consent.

Old Dairy Bales to be
decommissioned in accordance
with Condition 8 of development
consent.

Goonengerry Road

A1

A2

Cluster B

B2

B3

Cluster A

B1

C1

C2

C3

Cluster C

C4

Existing Dwelling
and Shed

Existing dwelling house to be included as
a Dwelling Site within the Multiple
Occupancy in accordance with Condition
9 of development consent.

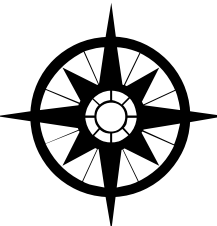
510 Goonengerry Road
Montecollum
Lot 201 DP 1271944

Proposed Multiple Occupancy

Illustration 7:
Layout Plan

Legend

- Subject Site
- Cadastre
- Contour 10m
- Contour 50m
- Watercourse / Gully
- Existing Dwelling and Shed
- Dwelling Site (15m x 15m)
- Byron DCP 160m Cluster
- Access Road
- Driveway
- Bin Shelter
- Planted Visual Buffer



1:2,000

Scale: A3
Datum: GDA94
Projection: MGA Zone 56

January 2022

Version A

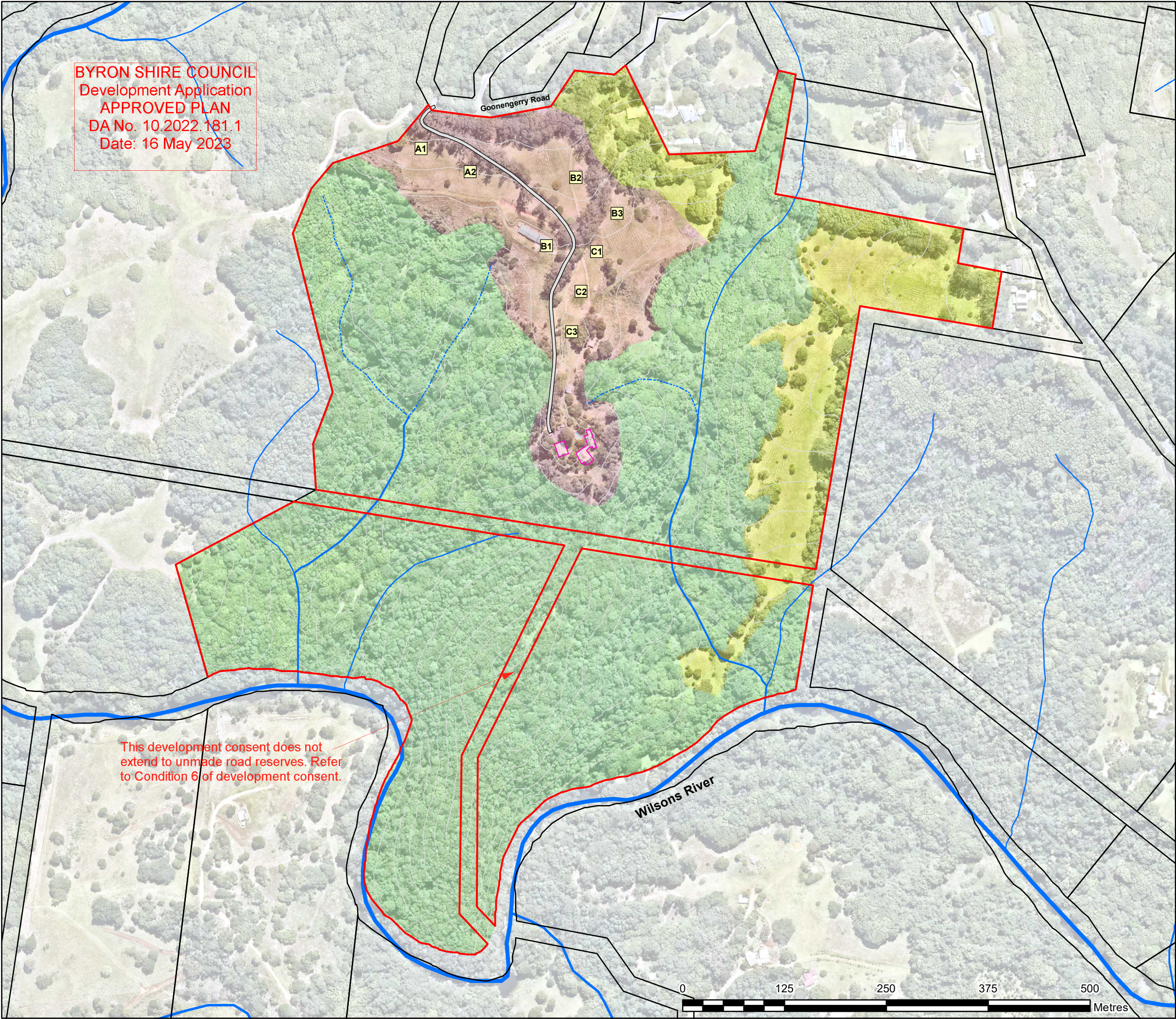
LGA: Byron

Parush: Jasper & Mullumbimby

Data Source:
Cadastral, Topographic Data: LPI NSW 2021
LiDAR Data: NSW Spatial Services
Aerial Imagery: October 2021

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This note is an integral part of this plan.





510 Goonengerry Road
Montecollum
Lot 201 DP 1271944

Proposed Multiple Occupancy

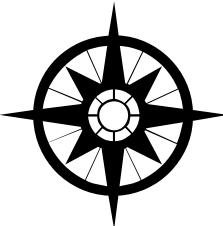
Illustration 9:
M.O. Management

Legend

- Subject Site
- Cadastral
- Contour 10m
- Watercourse / Gully
- Existing Dwelling and Shed
- Dwelling Site (15m x 15m)
- Access Road

Management Zones

- Community / Primary Production
- Rural Living
- Habitat



1:4,500

Scale: A3
Datum: GDA94
Projection: MGA Zone 56

January 2022

Version A

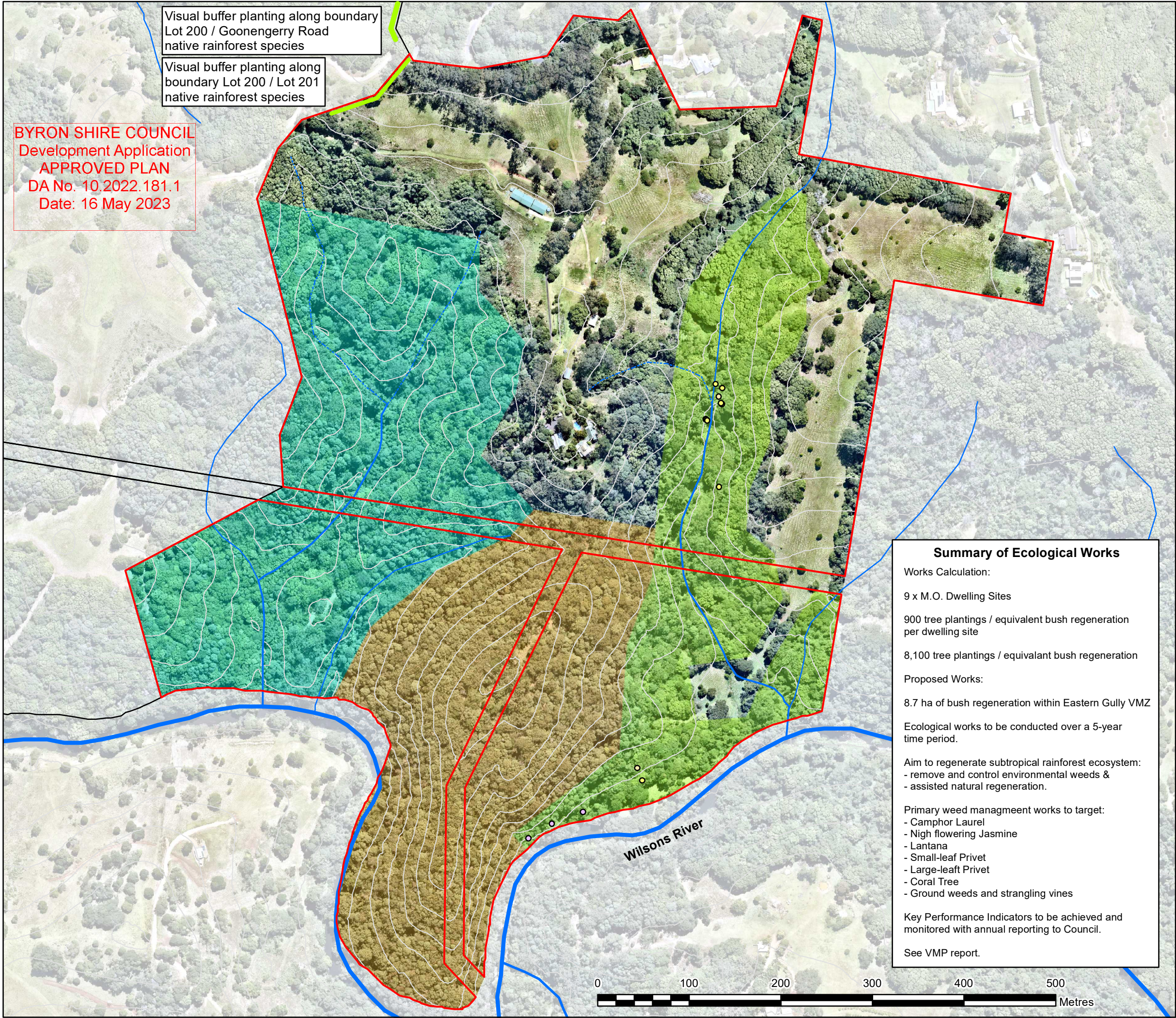
LGA: Byron

Parush: Jasper & Mullumbimby

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Cadastral, Topographic Data: LPI NSW 2021
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**510 Goonengerry Road
Montecollum
Lot 201 DP 1271944**

Proposed Multiple Occupancy

**Illustration:
Vegetation
Management Plan**

Legend

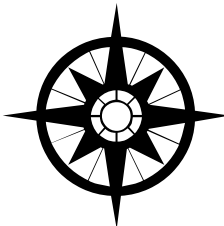
- Subject Site
- Cadastre
- Watercourse / Gully
- Contour 50m
- Contour 10m

Threatened Species

- Desmodium acanthocladum
- Macadamia tetraphylla
- Rhodamnia rubescens

Vegetation Management Zone

- Eastern Gully (8.7 ha)
- Western Gully (13.2 ha)
- Central Ridge (11.3 ha)



1:4,000

Scale: A3
Datum: GDA94
Projection: MGA Zone 56

January 2022

Version A

LGA: Byron

Parish: Mullumbimby

Data Source:
Cadastral, Topographic Data: LPI NSW 2022
LiDAR Data: NSW Spatial Services
Aerial Imager: October 2022

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