

STATEMENT OF
ENVIRONMENTAL EFFECTS
(SEE)

Proposed Above Ground Spa

at

3 Kallaroo Circuit
OCEASN SHORES NSW 2483

(Lot 88 DP 1036242)

For: Boyd and Amanda Phelps

Date: June 2024

Table of Contents

| | | |
|-------|---|----|
| 1. | INTRODUCTION..... | 3 |
| 1.1. | Summary..... | 3 |
| 1.2. | Public Notification..... | 3 |
| 1.3. | Integrated Development..... | 3 |
| 1.4. | Previous Development Approvals..... | 4 |
| 2. | SITE DESCRIPTION..... | 4 |
| 2.1 | Summary..... | 4 |
| 2.2 | Zoning..... | 5 |
| 2.3 | Services..... | 5 |
| 2.4 | Constraints..... | 6 |
| 3. | PROPOSED DEVELOPMENT..... | 8 |
| 4. | STATUTORY ASSESSMENT – PLANNING AND DEVELOPMENT..... | 8 |
| 4.1 | NSW Environmental Planning and Assessment Regulation 2021..... | 8 |
| 4.2 | Section 1.7 of the Environmental Planning & Assessment Act 1979..... | 8 |
| 4.3 | Section 4.14 of the Environmental Planning & Assessment Act 1979..... | 9 |
| 4.4 | Matters for Consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979..... | 9 |
| 4.4.1 | Section 4.15(1)(a)(i) The Provisions of any Environmental Planning Instrument..... | 10 |
| 4.4.2 | Section 4.15(1)(a)(ii) The Provisions of any Draft Environmental Planning Instrument.. | 15 |
| 4.4.3 | Section 4.15(1)(a)(iii) The Provisions of any development control plan,..... | 15 |
| 4.4.4 | Section 4.15(1)(a)(iv) The Provisions of any Planning Agreements..... | 23 |
| 4.4.5 | Section 4.15(1)(a)(v) The Provisions of the regulation..... | 23 |
| 4.4.6 | Section 4.15(1)(b) The likely Impacts of the Proposed Development..... | 23 |
| 4.4.7 | Section 4.15(1)(c) Suitability of the Site for the Proposed Development..... | 25 |
| 4.4.8 | Section 4.15(1)(d) Any submissions made..... | 25 |
| 4.4.9 | Section 4.15(1)(e) The Public Interest..... | 26 |
| 5. | CONCLUSION..... | 26 |
| 6. | DOCUMENTS INCLUDED WITH APPLICATION..... | 27 |

1. INTRODUCTION

This Statement of Environmental Effects has been prepared in accordance with the *Environmental Planning and Assessment Regulation 2021*, which requires a Statement of Environmental Effects to indicate the following matters, where relevant to the proposal:

- a. the environmental impacts of the development,
- b. how the environmental impacts of the development have been identified,
- c. the steps to be taken to protect the environment or to lessen the expected harm to the environment.

This report demonstrates, in the context of relevant Council and State Government Policies and Objectives, that the proposal will not generate adverse impacts on the built or natural environments. The report identifies the issues associated with the proposal and addresses mitigation where adverse impacts are likely. The proposal is considered consistent with relevant adopted policies and planning provisions.

This document has been prepared for the use of Byron Shire Council, as the consent authority, for determining a Development Application for the Proposed Above Ground Spa.

The document is to be used to assist in the assessment of this Development Application and is not intended to be used for any other purpose.

1.1. Summary

| | |
|----------------------|---|
| Applicant | Boyd Phelps |
| Owner | Boyd and Amanda Phelps |
| Address | 3 Kallaroo Circuit, Ocean Shores NSW 2483 |
| Lot & DP | LOT 88 DP 1036242 |
| Zoning | R2 Low Density Residential |
| Site Area | 654.7m ² |
| Proposal | Proposed Above Ground Spa. |
| Existing Development | Two storey dwelling |

1.2. Public Notification

As per Byron Shire Councils' Community Participation Plan 2019, the level of public notification is Level 0 – being *buildings and works ancillary to a dwelling-house* and does not require exhibition or notification.

1.3. Integrated Development

The proposed development is not integrated under any of the legislation listed in 4.46 of the *Environmental Planning and Assessment Act 1979*.

1.4. Previous Development Approvals

An Informal Access to Information Request has been made to access Council records. The Informal Access to Information Request revealed the following approvals for the property.

| Application No. | Description |
|---|--|
| Development Application No. 2002.348.1 | New dwelling – two storey, approved 09/08/2002 |
| Construction Certificate No. 288/02 | New dwelling, approved 10/10/2002 |
| Occupation Certificate No. 288/02-1 | New dwelling, approved 25/06/2003 |
| Development Application No. 10.2013.37.1 | Alterations and additions to existing dwelling, approved 20/02/2013 |
| Construction Certificate No. 11.203.37.2 | Alterations and additions to existing dwelling, approved 18/04/2013 |
| Occupation Certificate No. 13.2013.37.1 | Alterations and additions to existing dwelling, approved 29/05/2013 |

2. SITE DESCRIPTION

2.1 Summary

The site is a typical residential lot, legally described as (Lot 88 DP 1036242) located at 3 Kallaroo Circuit, Ocean Shores. The area of the land is 654.7m², is relatively flat and contains a two-storey dwelling house with attached double garage. The property is located on the northern side of a bend in the road known as Kallaroo Circuit.

Adjoining developments comprise similar residential dwellings to the north, east and west of the property. The property is fenced along all boundaries, excluding the road fronting boundary. The property is accessed via an existing driveway off the southern boundary, and contains dense landscaping plantings across the eastern and rear boundaries

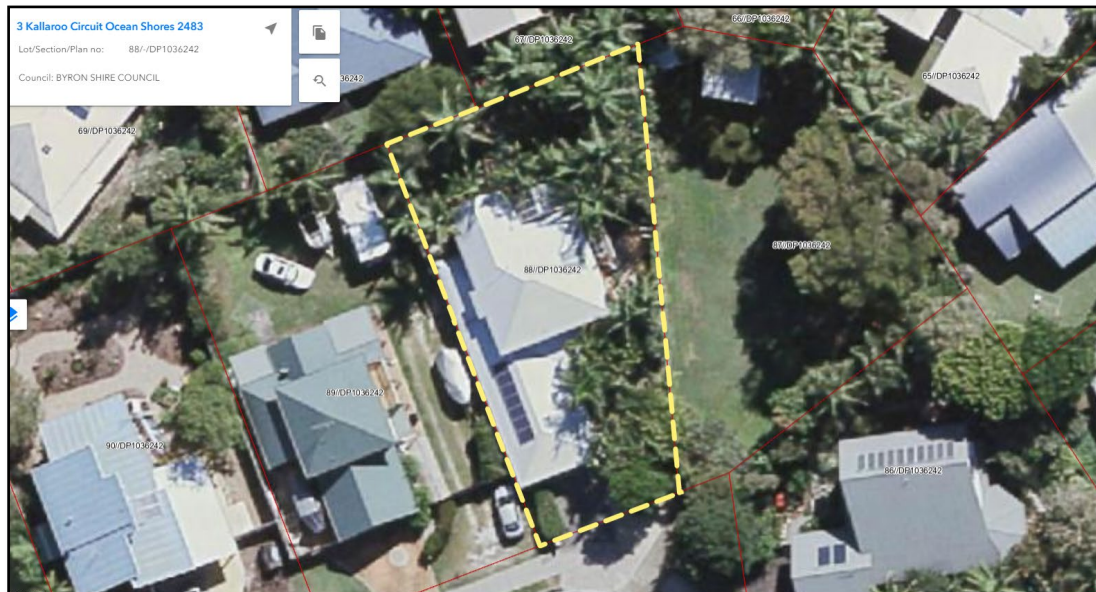


Figure 1: Aerial Photograph of property and locality (**Source:** NSW Planning Portal)

2.2 Zoning

The subject allotment is located within a R2 Low Density Residential Zone under Byron Local Environmental Plan 2014.



Figure 2: Zone R2, Aerial of 29 Natan Court, Ocean Shores
(**Source:** NSW Planning Portal)

2.3 Services

The allotment has access to the following services:

| | |
|-------|---|
| Water | The property is connected to Council's reticulated water supply |
|-------|---|

| | |
|--------------------------------|---|
| Sewer | Connect to Council's sewer system. |
| Telecommunications | Available to the property via Telstra infrastructure and internet services |
| Electricity | Accessible from underground transmission lines administered by Essential Energy |
| Stormwater | Stormwater will be directed to Council's stormwater system |
| Waste & Recyclables Collection | Available with roadside collection |

2.4 Constraints

The allotment is mapped as being within flood prone land, Acid Sulfate Soil Class 2 and narrow area of Bushfire Buffer zone along the western boundary. The application for the proposed above ground spa will address these constraints.



Figure 3: Flood Mapping (Source: Byron Shire Council)

The whole property has been nominated as containing Potential Acid Sulfate Soils Class 5. However, minimal earthworks are proposed in this application for an above ground spa.

Bushfire mapping has affected the rear portion of the allotment as a Vegetation Buffer, where the bushfire Category 1 threat containing dense vegetation is located more than 70m away from the property. No residential development is proposed in this application.

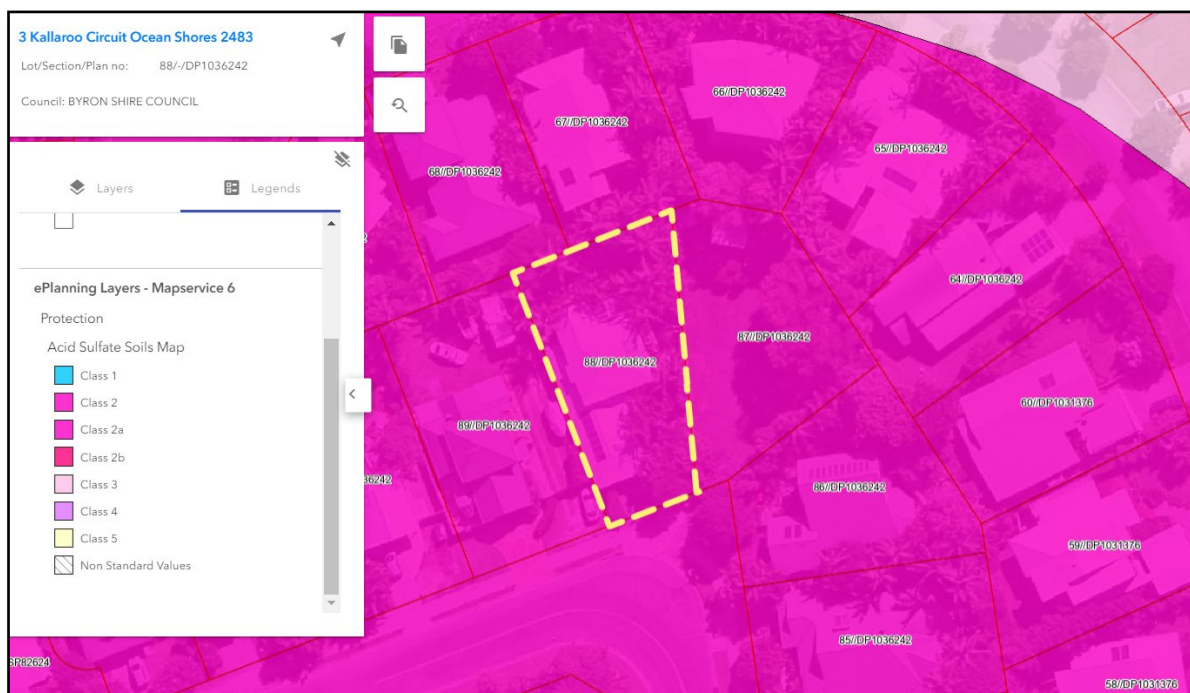


Figure 4: Acid Sulfate Soils Mapping (Source: NSW Planning Portal)

It is noted that the western boundary of the subject allotment is mapped as Vegetation Buffer land.

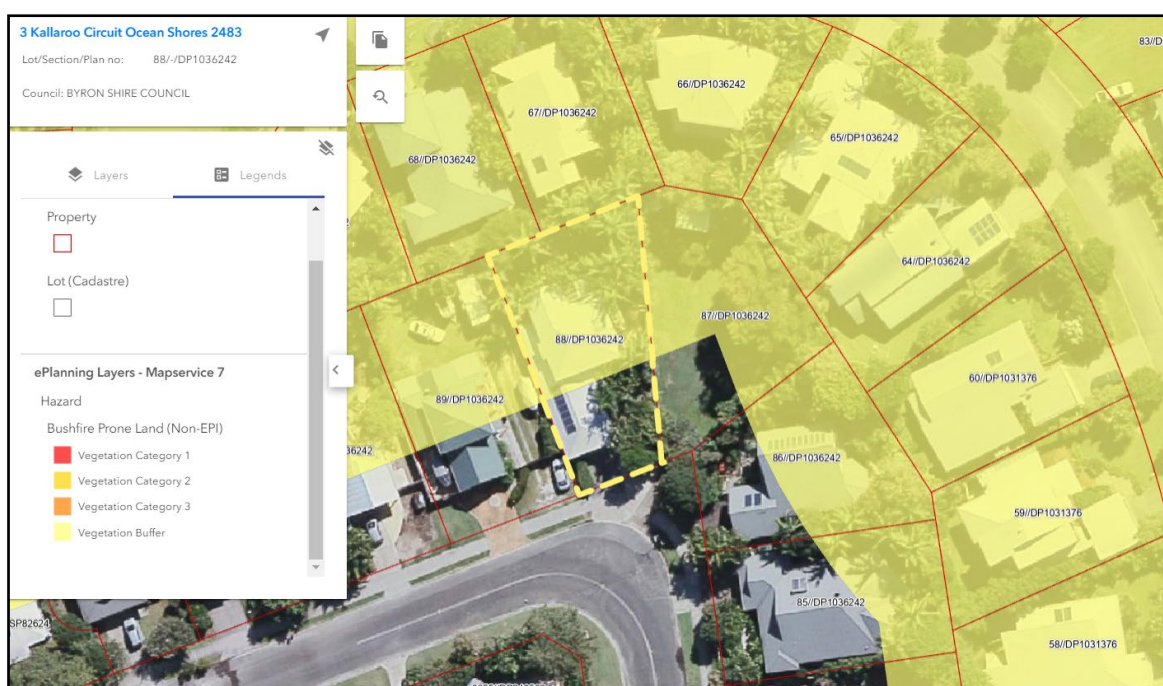


Figure 5: Bushfire Mapping (Source: NSW Planning Portal)

3. PROPOSED DEVELOPMENT

Consent is sought for a Proposed Above Ground Spa, which consists of the installation of the spa and construction of an associated slab on ground in the backyard, for the spa to be installed on.

As the property is already levelled, minimal earthworks will be required for the associated slab, and minor landscaping plant removal contributing to very minor site disturbance.

The intended location for the spa and associated slab is to the rear of the dwelling, adjacent to the existing patio near the eastern boundary. The purpose of the spa is for the enjoyment of household members and everyday needs of the residents.

The overall dimensions of the spa are approximately 3850 x 2200 and will stand 1.2m tall off the finished floor level. It has a capacity of 6000 L and includes feature plunge and massage jets, and will have a lockable cover in accordance with the NSW Swimming Pools Act.

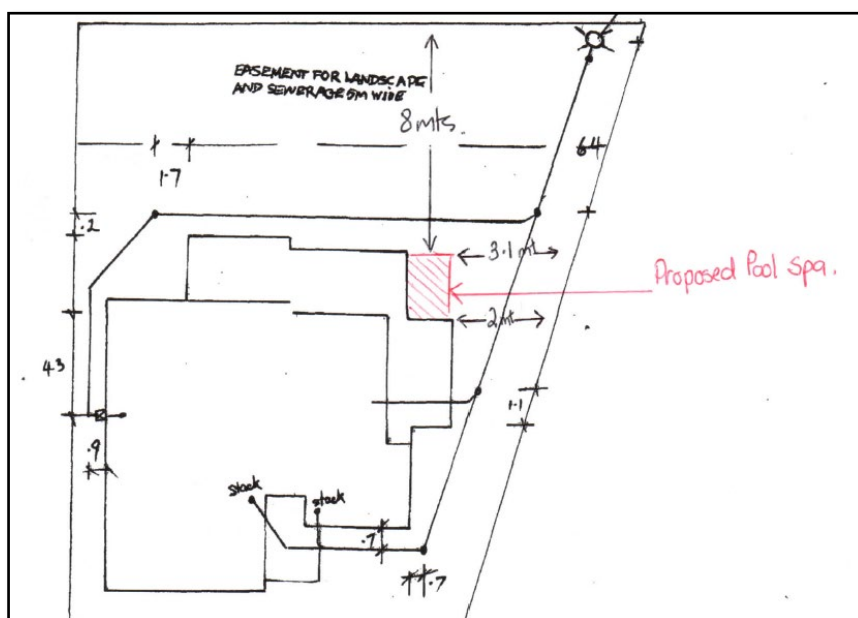


Figure 5: Site Plan (Source: Boyd Phelps)

4. STATUTORY ASSESSMENT – PLANNING AND DEVELOPMENT

4.1 NSW Environmental Planning and Assessment Regulation 2021

The proposal does not raise any significant issues under the *NSW Environmental Planning and Assessment Regulation 2021*. However, consideration has been given to the suitability of the building under Clause 64 of the *NSW Environmental Planning and Assessment Regulation 2021*.

4.2 Section 1.7 of the Environmental Planning & Assessment Act 1979

Section 1.7 of the EP&A Act 1979 provides that the 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 the Act in connection with the terrestrial and aquatic environment.

The proposed development will have minor impact on existing vegetation within the site as proposed development will be on existing landscaped area toward the eastern boundary of the allotment. Given the circumstances it is unlikely that the proposed development will have any direct impact on threatened species, populations, or ecological communities.

4.3 Section 4.14 of the Environmental Planning & Assessment Act 1979

Bush fire mapping indicates that the subject property has been mapped as containing a bushfire buffer area on the northern boundary. The buffer area intrudes approximately 3m into the property. The construction is for an inground swimming pool along the western side of the existing dwelling and would not add to any bushfire hazard for the property.

4.4 Matters for Consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979

The following provides an assessment of the proposed development in accordance with matters under Section 4.15 of the Environmental Planning & Assessment Act. 1979:

Matters for consideration--general in determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of—
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iv) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
 - (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

Each of these matters for consideration will be discussed in detail below:

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

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards), **Chapter 2 ‘Coastal Management’** – *the aim of this chapter is to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—*

- (a) *managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) *establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) *mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the [Coastal Management Act 2016](#).*

The whole property is mapped as being subject to Coastal Environment Area and Coastal Use Area.

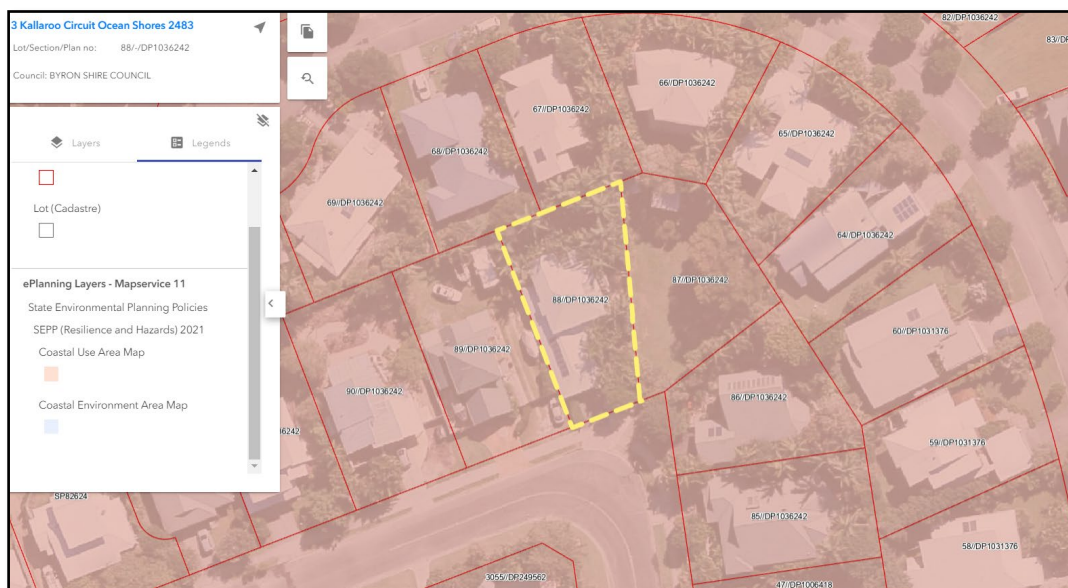


Figure 6: Coastal Use & Environment Mapping (Source: NSW Planning Portal)

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.*

Response: The proposed development will not affect the biophysical, hydrological and ecological environment of the coastal environment area as it is within an existing residential setting. The proposed development for an above ground spa, being ancillary to an existing dwelling, is compatible with the land, zoning, and surrounding development.

2.11 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*
 - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*

Response: The proposed development complies with these requirements.

- (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*

Response: The proposed development complies with these requirements.

- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Response: The proposed development complies with these requirements.

State Environmental Planning Policy (Resilience and Hazards), Chapter 4 'Remediation of Land' - provides contamination and remediation to be considered in determining development application. In relation to the Remediation of Lands Policy and Council's Contaminated Lands Policy, the allotment was created over 50 years ago for the purpose of containing residential development. Given the history of the site and the suburban setting, further investigations of the property with regards to site contamination are not considered warranted.

Information relating to contaminated land.

All land uses to which the site has been put, including the current use. - Residential.

Is the proponent aware of uses to which properties adjoining the site have been put? If so, please specify. - Residential

Do any of the uses correlate with the potentially contaminating activities set out in table 1 in Schedule 1 of this policy. - No

If the answer to 3 is yes – has there been any testing or assessment of the site and, if so what were the results? - N/A

Is the proponent aware of any contamination on the site? - No

What remediation work, if any (carried out voluntarily or ordered by a government agency), has been taken in respect to contamination which is or may have been present on the site? – Nil

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed works do not require a BASIX Certificate due to the type and value of the works.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 Koala habitat protection 2020 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Under Clause 3.8 (2) *“The council’s determination of the development application must be consistent with the approved koala plan of management that applies to the land”*.

Section 12 – Figure 10 (Development Assessment Flow chart) will be used to determine the extent that the *Byron coast comprehensive Koala Plan of Management* will apply:

- a. Does the application require development consent? Yes
- b. Does the application include land within the Byron coast koala planning area? Yes
- c. Does the application relate to land > 1 hectare? No
- d. Does the land contain potential habitat? No

As the *Byron coast comprehensive Koala plan of management* does apply a review of the potential and core Koala Habitat has been undertaken in accordance with ‘Figure 10 Development Assessment Flowchart’ from the Plan of Management.

Is the land potential Koala habitat? There is no Koala Habitat located on the site and no Koala food trees proposed to be removed for this development.

Based on the lack of Koala Habitat and the absence of Koalas, a Koala Plan of Management is not required based on this assessment.

Byron Coast Comprehensive Koala Plan of Management

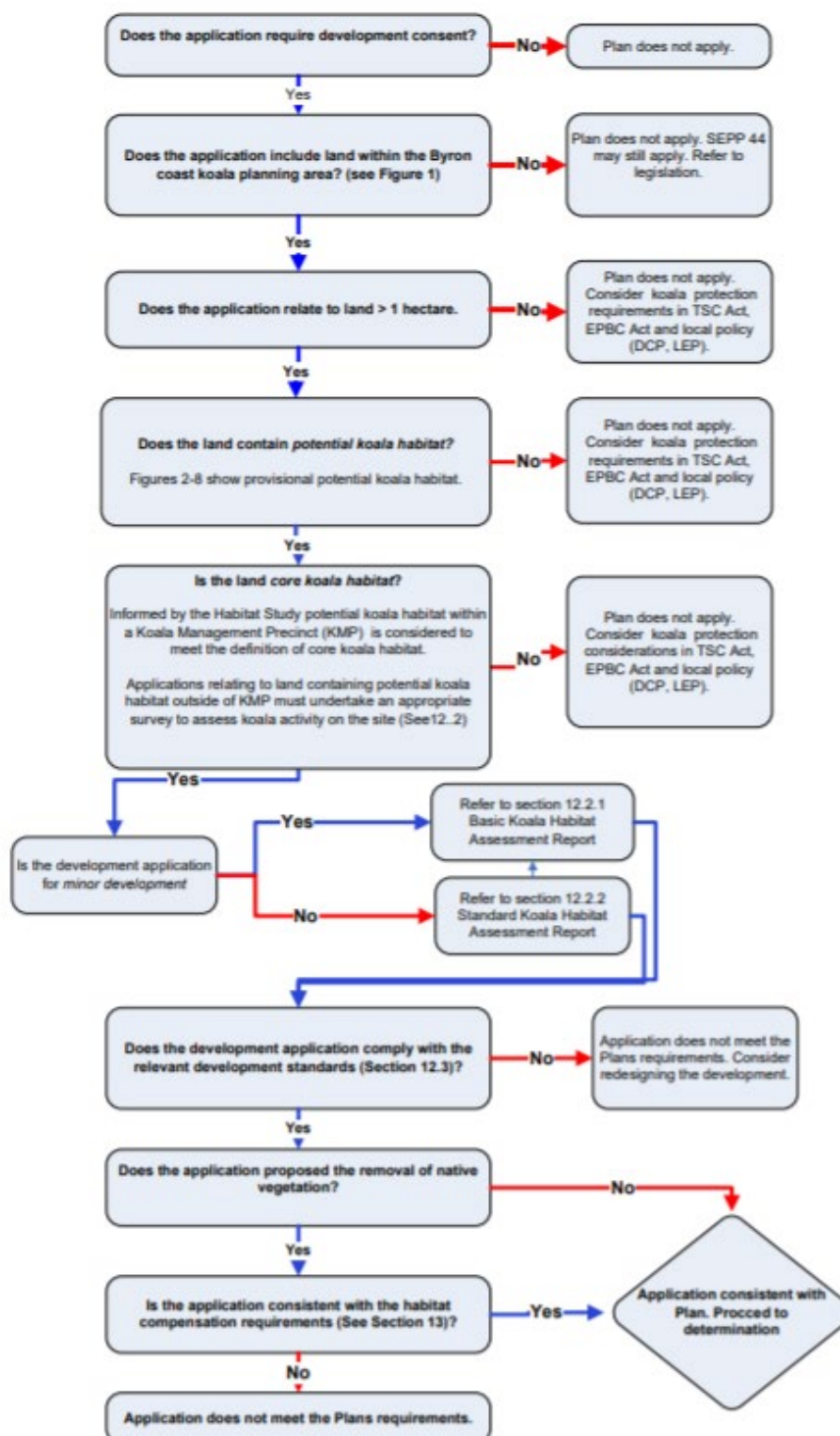


Figure 10 Development Assessment Flowchart

Byron Local Environmental Plan 2014

The proposed development will not compromise the statutory objectives under the provisions of Byron Local Environmental Plan 2014. It is consistent with the objectives of the zone and does not detract from the surrounding residential land uses.

The objectives of R2 Low Density Residential Zone are:

- To provide housing needs of the community within a low-density residential environment.

RESPONSE: There is an existing dwelling. An above-ground spa will provide additional amenity and enjoyment to the household members.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

RESPONSE: As the proposal is for a spa, ancillary to an existing dwelling and to be used in conjunction with the dwelling, where no additional land uses are proposed. As such the development meets the requirement.

| Byron L.E.P. 2014 Clause | Comment |
|---|---|
| Clause 4.4 – Floor Space Ratio | |
| The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site of the area. | Complies – The above ground spa is ancillary to the existing dwelling. |
| Clause 5.21 – Flood Planning | |
| (1) The objectives of this clause are as follows— (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, (c) to avoid adverse or cumulative impacts on flood behaviour and the environment, (d) to enable the safe occupation and efficient evacuation of people in the event of a flood. | There will be minor earthworks with the proposed development for the installation of an above ground spa. There will be no detrimental impact on drainage patterns, no impact on neighbouring properties, nor on any waterways. As the soil is potential acid sulfate soils the soil removed and disposed of, to an approval waste management facility. |
| Clause 6.1 – Acid Sulfate Soils | |
| The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. | The site is classified as containing potential Class 2 Acid Sulfate Soils. Considering the scope of works, an Acid Sulfate Soil Management Plan for Minor Works has been prepared and is annexed to this application. All soils will be disposed of appropriately at Council's facilities. |
| Clause 6.2 - Earthworks | |
| The objective of this clause is to ensure that earthworks for which development consent is | There will be minor earthworks for the proposed installation to sit the above ground spa on. |

| Byron L.E.P. 2014 Clause | Comment |
|---|--|
| required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. | There will be no detrimental impact on drainage patterns, no impact on neighbouring properties, nor on any waterways. |
| Clause 6.4 – Floodplain risk management | |
| 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. | The allotment is located within the Marshalls Creek – Mooball Creek Catchment and has an existing approved dwelling. The proposed development for the above ground spa is not a likely risk to life and property associated with the use of land whilst allowing for recreation facilities for the occupants and not preventing evacuation of people in the event of a flood. |
| Clause 6.6 – Essential Services | |
| The 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. | Complies - The proposed development has access to all required essential services. No changes to existing services are propose. |

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

There are no draft environmental planning instruments which have relevant implications for the proposal.

4.4.3 Section 4.15(1)(a)(iii) The Provisions of any development control plan.

Byron Development Control Plan 2014

The relevant chapters of the Byron Development Control Plan 2014 (BDCP 2014) have been addressed below:

| DCP Chapter | Comment |
|--|--|
| Chapter B2 – Tree and Vegetation Management | |
| Chapter B2.1.2 Application of this Chapter | |
| This DCP chapter applies to the removal or pruning of vegetation that is under the BOS threshold on all non-rural land (land in any zone other than RU1 and RU2) within the Byron Shire local government area. | The proposed development will be sited on existing landscaped area on a site that is predominantly flat. |

| DCP Chapter | Comment |
|--|--|
| Chapter B3 – Services | |
| Chapter B3.2.1 Provision of Services | |
| Objectives <ol style="list-style-type: none"> 1. Ensure adequate water, electricity, sewerage, drainage, road and telecommunication facilities are provided to development; 2. Provide flexibility for the provision of alternative water, electricity and telecommunications sources where appropriate; 3. To ensure provision of adequate engineering and safety standards for public road access, together with equitable apportionment of road upgrading requirements and associated costs for development served by existing public roads, un-constructed or partially constructed public roads and Crown Roads. | <p>The proposed development can be provided with all required essential services.</p> |
| Chapter B4 – Traffic Planning, Vehicle Parking, Circulation and Access | |
| Chapter B4.1.2 Aims of this Chapter | |
| <p>The Aims of this Chapter are to:</p> <ol style="list-style-type: none"> 1. To ensure that all relevant traffic impacts relating to development are identified, assessed and mitigated. 2. To ensure that parking supply and management in new developments supports Council policies and objectives for the development of Byron Shire; 3. To ensure that traffic generating developments make adequate provision for off-street car parking, such that the needs of occupants, users, visitors, employees, service and delivery vehicles are met; 4. To ensure the safe and efficient circulation of vehicles entering, leaving and within car parking and service/delivery areas; 5. To minimise the detrimental effects (particularly visual and radiated heat effects) associated with off-street car parking areas on the amenity of urban areas. 6. To ensure that entry/exit points to car parking and service/delivery areas are situated in a way that sight distances are maximised, and disruption to the circulation of vehicles on the public road system is minimized. 7. To have regard to the objectives contained within the Byron Shire Strategic Transport Statement (Transport Policy) | <p>Complies – Carparking is existing and the proposed spa will not affect the provision of carparking.</p> |
| Chapter B6 – Buffers and Minimising Land Use Conflict | |
| B.6.1.3 Aims of this chapter <ol style="list-style-type: none"> 1. To ensure that potential land use conflicts are identified early in the development process. 2. To provide planning principles aimed at avoiding or minimising land use conflicts. 3. To ensure that development proposals are designed to minimise land use conflicts. | <p>The development site and all the surrounding freehold properties are zoned for residential uses.</p> <p>The proposed development is within the existing allotment and is already designed to minimise land use conflicts.</p> |

| DCP Chapter | Comment |
|--|--|
| <ol style="list-style-type: none"> To provide standards for various types of buffers that aim to avoid conflicts or reduce them to acceptable levels. To encourage a diversity of small agricultural enterprises by providing opportunities to vary the recommended buffer distances through the site assessment process where best practice is being utilised. | An above-ground spa is ancillary to be used in conjunction with the existing residential dwelling. |
| <p>B6.2.4 Buffers - Objectives</p> <ol style="list-style-type: none"> To avoid land use conflicts between proposed new development and existing, legitimate land uses. To outline controls for buffers aimed at reducing land use conflicts between proposed new development and existing, legitimate land uses where development design and siting cannot deal satisfactorily with land use conflict. To provide for existing, legitimate agricultural and associated rural industry uses to take precedence over other rural land uses within primary production rural zones and where appropriate in other rural zones. <p>To protect significant environmental and natural resources through incorporation of buffers into developments.</p> | <p>The development site and all the surrounding freehold properties are zoned for residential uses.</p> <p>The proposal is consistent with the previous and intended planning strategy therefore there is no apparent potential for land-use conflict or the need for buffer zones because of this proposal.</p> |
| Chapter B8 – Waste Minimisation and Management | |
| Chapter B8.1.2 Aims of this Chapter | |
| <p>The Aims of this Chapter in pursuit of sustainable waste management include:</p> <p>Waste minimisation</p> <ol style="list-style-type: none"> To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources. To minimise demolition waste by promoting adaptability in building design and focusing upon end of life deconstruction. To encourage building designs, construction and demolition techniques in general which minimise waste generation. To maximise reuse and recycling of household waste and industrial/commercial waste. <p>Waste management</p> <ol style="list-style-type: none"> To assist applicants in planning for sustainable waste management, through the preparation of a Site Waste Minimisation and Management Plan. To assist applicants to develop systems for waste management that ensure waste is transported and disposed of in a lawful manner. To provide guidance in regards to space, storage, amenity and management of waste management facilities. To ensure waste management systems are compatible with collection services. To minimise risks associated with waste management at all stages of development. | A Site Waste Minimisation and Management Plan has been submitted with this Development Application. |

| DCP Chapter | Comment |
|---|--|
| Chapter B9 - Landscaping | |
| Chapter B9.1.3 Aims of this Chapter | |
| <ol style="list-style-type: none"> 1. To facilitate implementation and achievement of the relevant Aims contained in Clause 1.2 of Byron LEP 2014. 2. To maintain, protect and enhance the Shire's biodiversity in conjunction with development. 3. To encourage the enhancement of the natural sub-tropical environment particular to the Shire of Byron. 4. To nominate landscaping requirements relating to all forms of development. 5. To ensure that adequate provision is made for landscaping, in accordance with the type, scale and location of the proposed development. 6. To encourage the recognition of climatic influences and the incorporation of landscaping design features to enhance or modify the climatic factors relating to the site. 7. To encourage design for low maintenance landscaping. 8. To encourage the retention of trees and native vegetation of ecological, aesthetic and cultural significance through integration as part of landscaping design. 9. To encourage the planting of species locally indigenous to Byron Shire. | <p>Complies – Existing landscaping on site is adequate and achieves these objectives.</p> |
| Chapter B14 – Excavation and fill | |
| Chapter B14.1.2 Aims of this Chapter | |
| <ol style="list-style-type: none"> 1. To ensure that development applications for earthworks address aesthetics, character, engineering and geotechnical factors. 2. To ensure that the character, bulk and scale of development remain compatible with the unique environment that has been created by the area's natural features and its historical built character. 3. To control the extent of earthworks, so that the bulk, scale and appearance of development remain compatible with the character and visual amenity of the Shire's towns, villages, rural areas and natural landscapes. 4. To promote the appropriate use of well designed earthworks to achieve compatible and positive design outcomes in terms of improved landscapes, streetscapes, thermal sustainability and insulation in buildings and developments. 5. To prevent cumulative deterioration in the attractiveness of the Shire's built environment as a result of large scale earthworks, buildings and structures that by themselves may not appear highly significant, but that collectively and progressively contribute to reduced character and appeal. 6. To minimise the need for extensive engineering works required to support and manage large scale | <p>Complies - The excavation works for the proposed slab associated with the above ground spa will be required.</p> <p>There will be no detrimental impact on drainage patterns, no impact on neighbouring properties, nor on any waterways.</p> <p>As the soil is potential acid sulfate soils the soil will be managed appropriately and disposed of if required to an approved waste management facility.</p> |

| DCP Chapter | Comment |
|---|---|
| <p>earthworks.</p> <p>7. To minimise risks of geotechnical instability, landslip and surface movement associated with development.</p> | |
| Chapter C2 – Areas Affected by Flood | |
| Chapter C2.1.2 Objectives of this Chapter | |
| <p>The Objectives of this Chapter are to:</p> <ol style="list-style-type: none"> 1. Support and implement the objectives and provisions of Byron LEP 2014 relating to development on land at or below the relevant flood planning level. 2. Provide a holistic approach to managing development on flood liable lands; 3. Ensure development maintains the existing flood regime and flow conveyance capacity; 4. Consider the future projected impacts of climate change on the floodplain in accordance with Council's adopted Climate Change Strategic Planning Policy; 5. Reduce the impact of flooding and flood liability on individual owners and occupiers; 6. Reduce public and private losses resulting from flooding; 7. Encourage the development of and use of land in a manner compatible with the flood hazard. | <p>The proposed development should not result in any increased risk to human life. The proposed spa being a non-habitable structure, there will be limited economic and social costs which may arise from damage to property from flooding.</p> <p>The existing evacuation of the dwelling should be consistent with any relevant flood evacuation strategy</p> |
| Chapter C2.3.2 Minimum floor Levels | |
| <ol style="list-style-type: none"> 1. The finished floor level of habitable rooms must be above the relevant level defined by the flood planning matrix. Analysis and certification by a suitably qualified structural engineer will be required where the finished floor level of enclosed 'non-habitable' rooms is more than 1.0 metre below the 1:100 year flood level. | N/A |
| Chapter D1 – Residential Accommodation in Urban, Village and Special Purpose Zones | |
| Chapter D1.1.1 Aims of this Chapter | |
| <ol style="list-style-type: none"> 1. To implement and expand on the provisions of Byron LEP 2014 relating to residential development. 2. To promote a high standard of design for residential development that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire. 3. To accommodate a variety of residential forms and dwelling sizes to reflect the growing diversity of household types, sizes, incomes, lifestyles and needs. 4. To promote energy efficiency and consideration of the Shire's climatic characteristics in the design process. 5. Where possible, to limit potential for additional traffic on the road system and to reduce car dependence through facilitation of public transport, cycling and walking. | The proposed development achieves these aims and objectives. |

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| Chapter 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. | <p>The proposed development is setback behind the building line, 8m from the rear boundary and 2m from the nearest side boundary.</p> |
| Prescriptive Measures Strict compliance with the following minimum setback prescriptive measures will not necessarily be sufficient by itself to meet the Objectives. <p>5. Minimum Setbacks for Swimming Pools and Spas</p> <ol style="list-style-type: none"> 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. | <p>The proposed development is at least 2m from the nearest side boundary.</p> <p>The proposed development is setback behind the existing dwelling, on the eastern side.</p> |
| Chapter D1.2.6 Character and 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. | <p>The proposed development is consistent with the neighbouring built environment, containing similar developments such as swimming pools. The proposed development meets the objectives.</p> |
| 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 | <p>The proposed development is to the eastern side of the existing approved dwelling and screened by trees along the western and front boundary.</p> |

| DCP Chapter | Comment |
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| <p>landscaping;</p> <ol style="list-style-type: none"> 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 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. | |
| Chapter D1.2.7 Fences | |
| <p>Objectives</p> <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. To ensure provision for access by safety and emergency vehicles and personnel. | <p>Complies – Existing fencing along the side and rear boundaries is to be retained, no changes are proposed to the existing fencing on the property.</p> |
| Chapter E9 – Ocean Shores, New Brighton and South Golden Beach | |
| E9.1.2 Aims of the Chapter | |
| <p>The primary purpose of this Chapter of the DCP is to provide the residential character context and principles for development within the above residential areas. The aims of this Chapter are:</p> <ol style="list-style-type: none"> 1. To provide guidelines for the development of the above residential areas consistent with the provisions of the Byron LEP 2014, the draft Byron Shire Residential Strategy 'residential character narratives' and other relevant strategies and Chapters of this DCP. | <p>The proposed development will comply with these aims and objectives by being located within the required setbacks.</p> |

| DCP Chapter | Comment |
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| <p>2. To inform the content of any Design Verification Statement and site analysis required by the Low-Rise Housing Diversity Guides (for Complying development and Development Applications).</p> <p>3. To encourage new development to complement, support and strengthen the residential character and living amenity of these localities.</p> | |
| E9.3 GENERAL PROVISIONS | |
| E9.3.1 Character, Bulk and Scale of Development | |
| <p>Objectives</p> <p>1. To ensure that residential development will complement, support and strengthen the residential character and living amenity of these localities.</p> <p>2. To ensure that infill development respects (where applicable) constraints associated with steep terrain, flooding and sensitive coastal habitat, as well as surrounding neighbourhood character.</p> | <p>The proposed development will comply with these aims and objectives by being located within the required setbacks.</p> |
| <p>Performance Criteria</p> <p>The existing and desired future character of these localities is defined by the following characteristics:</p> <p>1. Natural Environment</p> <p>The Ocean Shores, New Brighton and South Golden Beach localities are bounded and strongly influenced by natural elements including the sea, Nature Reserves (Billinudgel and Marshalls Creek), wetlands, remnant forests, bushland and parklands. Development within these localities is located, designed and oriented to support, complement and foster community access to and understanding of those natural elements. Development is designed to protect and enhance their integrity and to respect their natural edges. Where feasible, development allows and encourages the natural elements to expand into the development site.</p> | <p>The proposed development will comply with these performance criteria by being located within the required setback and providing suitable landscaping.</p> |
| <p>2. Residential Areas</p> <p>a) The residential areas in these localities contain a varied and compatible range of architectural styles, materials, landscapes and streetscapes. Housing comprises mainly low density, low rise single and attached dwellings with low-impact bulk and scale. New development is designed to respect the residential neighbourhood character of these areas, consistent with residential character narratives in E9.2 above.</p> <p>b) New residential development is consistent with the requirements of Chapter D1 Residential Development in Urban and Special Purpose Zones. Development is designed to enhance the low key, family-friendly, coastal village character, streetscape and scale of Brunswick Heads. Landscaping is provided in accordance with the requirements of Chapter B9 Landscaping.</p> | <p>The development will be compatible in character between the dwellings on the site, the site itself and the surrounding urban environment by providing a lowest building consistent with development in the area.</p> <p>The siting of the development does not externalize impacts of noise, overshadowing or compromises to privacy onto neighbouring properties.</p> |

4.4.4 Section 4.15(1)(a)(iv) The Provisions of any Planning Agreements

There are no planning agreements that have been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 for this development.

4.4.5 Section 4.15(1)(a)(v) The Provisions of the regulation

Clause 64 of the *Environmental Planning and Assessment Regulation 2021* allows for a Consent authority to require buildings to be upgraded. This clause applies to the determination of a development application that involves the rebuilding or alteration of an existing building if—

- (a) the proposed building work and previous building work together represent more than half of the total volume of the building, or
- (b) the measures contained in the building are inadequate—
 - (i) to protect persons using the building, if there is a fire, or
 - (ii) to facilitate the safe egress of persons using the building from the building, if there is a fire, or
 - (iii) to restrict the spread of fire from the building to other buildings nearby.

4.4.6 Section 4.15(1)(b) The likely Impacts of the Proposed Development

In assessing the subject proposal, Council must consider the likely impacts of the development, including environmental impacts, on both the natural and built environments, and social and economic impacts in the locality.

This Section of the Statement of Environmental Effects indicates the following matters, where relevant to the proposal:

- a) the environmental impacts of the development,
- b) how the environmental impacts of the development have been identified,
- c) the steps to be taken to protect the environment or to lessen the expected harm to the environment.

Impacts on the Built Environment

As the proposed development is considered low impact with the estimated traffic generation in accordance with Chapter B4 of the DCP.

The proposed development will not significantly affect solar access, privacy or the views of neighbouring sites. The site contains an existing approved dwelling and the colours and materials of the proposed spa are consistent with the character of the area.

Impacts on the Natural Environment

The site is a grassed, landscaped residential lot and no tree removal is proposed.

The proposed development site is affected by flooding, bushfire and acid sulfate soils; however, the Proposed Above Ground Spa has been designed with consideration to these factors and will not increase risk or impact negatively on the environment, property or residents.

The proposed development site is not significantly affected by landslip or soil erosion and the scenic quality of the area will not be impacted upon by the proposed development, considering the minor nature of what is proposed. The impact of noise is also expected to be acceptable. The Biodiversity Offset Scheme (BOS) Entry Threshold Map was generated and a BDAR is not triggered.

An assessment in accordance with section 7.3 of the Biodiversity Conservation Act 2017 to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats is provided below.

- a) In the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction

Comment: The proposal is not expected to have an adverse effect on populations of threatened species as no native vegetation is to be removed and as previously noted there are no trees or shrubs in or adjacent to the intended location.

- b) in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:
 - i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or
 - ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction

Comment: The proposal is not expected to have an adverse effect on any endangered ecological community or critically endangered ecological community.

- c) in relation to the habitat of a threatened species or ecological community:
 - i) the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and
 - ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and
 - iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality,

Comment: The proposed development will not remove habitat or isolate or fragment

any ecological community.

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

Comment: There is no declared area of outstanding biodiversity value that will be affected by the proposed development.

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

Comment: The proposed development is not likely to fragment or isolate areas of habitat and is not a key threatening process.

Economic Impacts

The proposal is likely to result in positive economic impact. The Proposed Above Ground Spa and its use will contribute positive social and economic benefits to the wider community and that of the residents.

Social impacts

The proposal does not raise any social impact issues. There will not be any significant impact on the existing and future amenity of the area as a result the development.

4.4.7 Section 4.15(1)(c) Suitability of the Site for the Proposed Development

No trees are proposed to be removed. None of the surrounding uses present any major conflicts for the proposed uses of the subject site.

The property fronts Kallaroo Circuit and is generally flat. The site is constrained by flooding, bushfire and acid sulfate soils; however the proposed development has considered these factors, and the installation of an above ground spa will ensure that the overall proposal will not cause adverse environmental impact.

The size and shape of the allotment is adequate to ensure that the proposal does not constitute an over development of the site. It also accords with Council's requirements for developments of this type.

The site is considered to be suitable for the proposed development.

4.4.8 Section 4.15(1)(d) Any submissions made

Where Council notifies this development, any submissions made should be consider as part of the assessment of the development. The applicant would like the opportunity to remedy any issues raised as a result of the submissions made (if any).

4.4.9 Section 4.15(1)(e) The Public Interest

The proposed development meets the requirements of Byron Local Environmental Plan 2014 and Development Control Plan 2014.

Due to the spatial separation of the buildings from adjoining dwellings, the habitat area retention proposed, the proposal meets ESD principles, and it is considered that the public response to the proposal be a positive one. The development is to be managed to minimise the potential for adverse impact on adjoining properties and other dwellings in the locality.

Operation of the land use will ensure minimised noise, and visual impact at any adjoining residences.

The development does not compromise the public interest.

5. CONCLUSION

This Statement of Environmental Effects accompanies development application documentation and seeks the approval for the Proposed Above Ground Spa.

The proposed development has been considered against the requirements of Byron Local Environmental Plan 2014 and Development Control Plan 2014. The proposal is permissible with the consent of Council within the R2 Residential Zone under Byron Local Environmental Plan 2014. The proposed development is generally consistent with the requirements of both the LEP and DCP, will have minimal impacts on the surrounding area as the development will comply with the objectives of the zone and does not detract from the surrounding land uses.

The residential site and available infrastructure are considered to be suitable for the development proposed.

This Statement of Environmental Effects has identified that the proposal is not likely to cause any significant adverse impacts or land use conflicts, and therefore it is recommended that the development be approved.

6. DOCUMENTS INCLUDED WITH APPLICATION

Annexure 1 – Site Plan

Annexure 2 – Pool Specification Sheet

Annexure 3 – Cost of Works

Annexure 4 - Acid Sulfate Soils Plan of Management for Minor Works

Annexure 5 - Waste Minimisation Plan

Annexure 6 – Statement of Environmental Effects

Annexure 7 – Letter of Authorisation and Owners Consent