

STATEMENT OF
ENVIRONMENTAL EFFECTS
(SEE)

Proposed Installation of a Relocated
Dwelling

at

58 Ann Street
Mullumbimby

(Lot 27 Sec 3 DP 4721)

For: Va Barber Hua

Date: 5 July 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.....	6
2.4	Surrounding Development.....	6
2.5	Constraints.....	6
3.	PROPOSED DEVELOPMENT.....	8
4.	STATUTORY ASSESSMENT – PLANNING AND DEVELOPMENT.....	9
4.1	NSW Environmental Planning and Assessment Regulation 2021.....	9
4.2	Section 1.7 of the Environmental Planning & Assessment Act 1979.....	10
4.3	Section 4.14 of the Environmental Planning & Assessment Act 1979.....	10
4.4	Matters for Consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979.....	10
4.4.1	Section 4.15(1)(a)(i) The Provisions of any Environmental Planning Instrument.....	11
4.4.2	Section 4.15(1)(a)(ii) The Provisions of any Draft Environmental Planning Instrument..	17
4.4.3	Section 4.15(1)(a)(iii) The Provisions of any development control plan,.....	18
4.4.4	Section 4.15(1)(a)(iv) The Provisions of any Planning Agreements.....	30
4.4.5	Section 4.15(1)(a)(v) The Provisions of the regulation.....	30
4.4.6	Section 4.15(1)(b) The likely Impacts of the Proposed Development.....	31
4.4.7	Section 4.15(1)(c) Suitability of the Site for the Proposed Development.....	33
4.4.8	Section 4.15(1)(d) Any submissions made.....	33
4.4.9	Section 4.15(1)(e) The Public Interest.....	33
5.	CONCLUSION.....	34
6.	DOCUMENTS INCLUDED WITH APPLICATION.....	35

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 Installation of a Relocated Dwelling.

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	Va Barber Hua
Owner	Va and Joy Barber Hua
Address	58 Ann Street, Mullumbimby
Lot & DP	Lot 27 Sec 3 DP 4721 and Lot 28 Sec 3 DP 4721
Zoning	R2 Low density Residential
Site Area	948.4m ²
Proposal	Installation of a Relocated Dwelling
Existing Development	Vacant lot due to flood loss

1.2. Public Notification

As per Byron Shire Council Community Participation Plan, the level of public notification is Level 0 – being for a Dwelling-house that is single storey, where there is no timeframe for exhibition.

1.3. Integrated Development

The proposed development is not integrated under any of the legislation listed in 4.46 of the

1.4. Previous Development Approvals

A Historical Property 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. 10.2007.573.1	Removal of four (4) trees, approved 11/10/2007
Development Application No. 10.2022.426.1	Dwelling House and Alterations to Existing Building to Use as a Secondary Dwelling to replace Two (2) Dwellings that were Damaged by Flooding, approved 23/11/2022
Construction Certificate No. CC/2455622	Dwelling House and Alterations to Existing Building to Use as a Secondary Dwelling with attached alfresco, balcony & porches, approved 16/11/2022
Occupation Certificate No. 13.2022.426.1	Dwelling House and Alterations to Existing Building to Use as a Secondary Dwelling with attached alfresco, balcony & porches, approved 20/12/2023
Section 138 No. 51.2022.426.1	Roads act application, approved 12/12/2023
Development Application No. 10.2023.145.1	Dwelling House and Secondary Dwelling to Replace Two (2) Dwellings that were Damaged by Flooding, approved 20/11/2023

2. SITE DESCRIPTION

2.1 Summary

The proposed development relates to a single allotment of land that is formally described as Lot 27 Section 3 in Deposited Plan 4721. The allotment is located at No. 58 Ann Street, Mullumbimby. The allotment was once known as No. 56 Ann Street, Mullumbimby, as it was part of a large property that contained an adjoining allotment, described as Lot 28 Section 3 Deposited Plan 4721.

The property as such, is predominantly cleared and grassed with minor landscaping. It is generally flat and contains existing fencing along the side and rear boundaries. The allotment fronts Ann Street and the rear boundary adjoins Hollingworth Lane.

A Development Application was recently granted consent to create a principal dwelling and a secondary dwelling within the adjoining Lot 28. The subject lot is rectangular in shape with frontages of 10.06 metres to Ann Street and a rear lane known as Hollingworth Lane. The eastern and western boundaries are both 47.175 metres in length and are adjoined by residential lots. Lot 27 has an area of 474.6 square metres. The land is generally level but has a gentle fall to the street frontage and rear lane.

Until recently, the property was occupied by a principal dwelling and a secondary dwelling that were located over the common boundaries of both Lots 27 and 28 Sec 3 DP 4721. The principal dwelling was located within the south of the property (with access from Ann Street) and the secondary dwelling in the north (with access from Hollingworth Lane).

Following significant damage from flooding during the regional flood event in early 2022, the NSW Government endorsed the demolition of the pre-existing principal dwelling and the clearing of the site. The property has approvals to construct a new primary dwelling and secondary dwelling in lieu of the flood loss development.



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

2.2 Zoning

The subject allotment and surrounding properties are located within a R2 Low Density Residential Zone under the Byron Local Environmental Plan 2014.

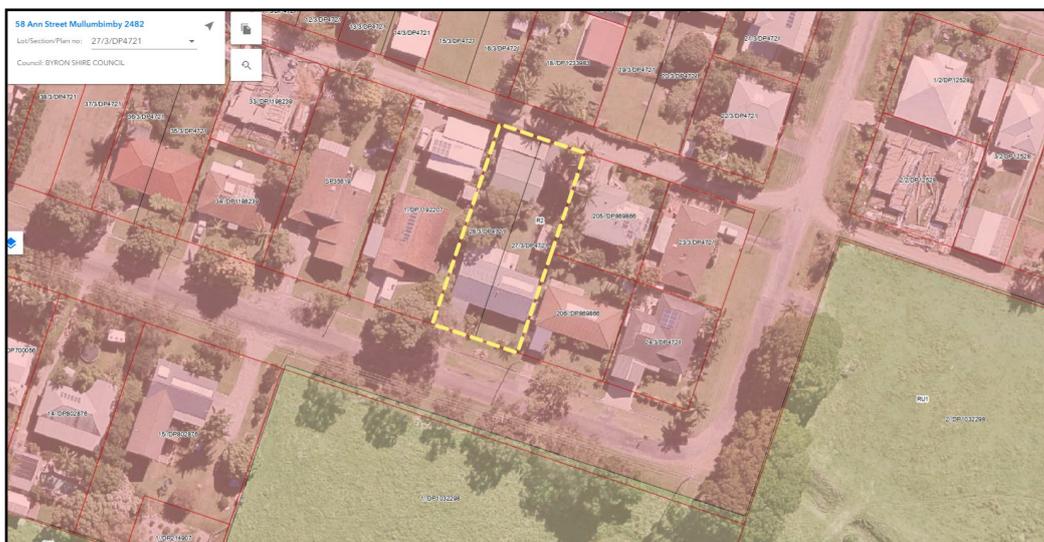


Figure 2: Zone R2 and DM, aerial of 3 Orara Court, Byron Bay (Source: NSW Planning Portal)

2.3 Services

The allotment has access to the following services:

Water	The property is connected to Council's reticulated water supply
Sewer	Connected to Council's sewer
Telecommunications	Available to the property via Telstra infrastructure and internet services
Electricity	Administered by Essential Energy
Stormwater	Stormwater will be directed to Council's stormwater system
Waste & Recyclables Collection	Available with roadside collection

2.4 Surrounding Development

Surrounding development comprises residential allotments, zoned R2 with similar residential development in the same style and character as the subject dwelling. With the exception of large rural properties across Ann Street, of which are zoned RU1 comprising mostly vacant grassed lands with some occasional trees.

Natural watercourses snake through this rural land, adjoining Saltwater Creek. The whole neighbourhood was flood affected during the recent 2022 flood events through the region.

A review of Deposited Plan 4721 shows that the original subdivision pattern comprised 140 allotments with the exact size and shape as the subject property. As such it is clear that the allotments were originally created for the purposes of accommodating separate residential dwellings.

The surrounding area includes a mix of single dwellings, secondary dwellings and dual occupancy development. Both one and two storey buildings are located within Ann Street. A number of recent Development Applications have been submitted to Byron Shire Council to raise or replace dwellings that have been impacted by flooding in the area.

2.5 Constraints

The allotment has been mapped as having planning constraints including Potential Acid Sulfate Soils, Class 3 of which the whole allotment has been nominated. The property is flood affected and as previously notes, was heavily impacted on during the recent flood events.

The whole allotment is also within the Koala Planning Area, however, has no Koala food trees nor habitat present on site. Assessments have been made for these constraints.



Figure 3: Acid Sulfate Soils Mapping (Source: NSW Planning Portal)

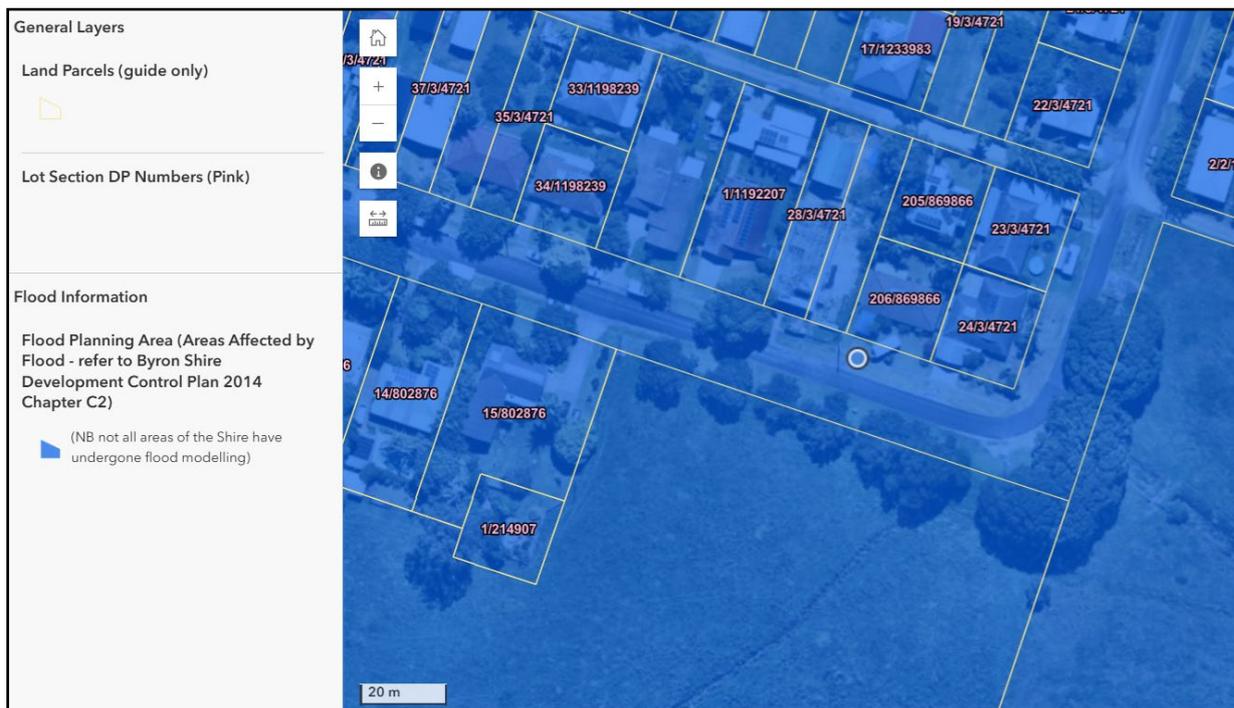


Figure 4: Flood Planning Area (Source: Byron Shire Council Mapping)

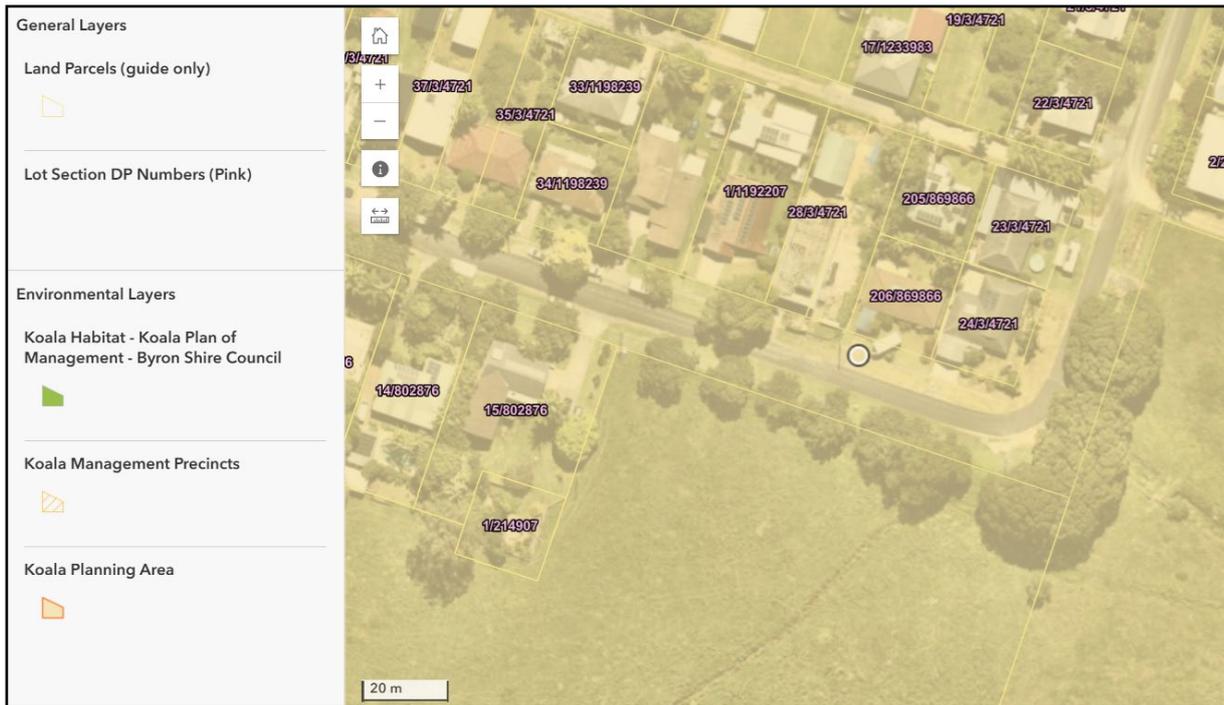


Figure 5: Koala Planning Area (Source: NSW Planning Portal)

3. PROPOSED DEVELOPMENT

Consent is sought for the Proposed Installation of a Relocated Dwelling.

The proposal consists of a relocated Queenslander to be installed in the same already approved location as the primary dwelling proposed in DA 10.2023.145.1, approved on 20/11/2023 for a *Dwelling House and Secondary Dwelling to Replace Two (2) Dwellings that were Damaged by Flooding*. This Development Consent also allowed for the construction of a Secondary Dwelling at the rear of the property, of which is to remain as approved.

This Development Application will result in development of which is the same as what was approved in DA 10.2023.145.1, in regard to their being a total of two (2) dwellings at the completion of the development. One house being the primary dwelling, and subject of this DA, proposed to be a relocated Queenslander. The second house, nominated as a Secondary dwelling, is not subject of this DA and is to remain the same as approved.

Whilst the result of development is the same, the scope, configuration, bulk and scale of a relocated dwelling is not considered “substantially the same” to warrant a Modification to Development Consent under Section 4.55 of the Environmental Planning and Assessment Act 1979 No 203.

The reason for the change in scope of works from *construction of a new dwelling to installation of a relocated dwelling* is that for a quicker erection of a structure to replace the loss of dwelling as a result of the recent 2022 flood events. A relocated dwelling will meet the housing needs of current property owners in a more economical and timely fashion than that of a new build, and ultimately respond to the needs of the community.

The new relocated dwelling is to sit in the same location as approved in DA 10.2023.145.1 with frontage to Ann Street. As the Queenslander is on stilts and the proposed height of the subfloor is considerable in order to withstand a flood event, vehicular access will lead to car parking spaces contained within the open subfloor of the building.

The raised dwelling is accessible via two external stairs, one at the front of the dwelling and one to the rear. The relocated dwelling contains two bedrooms, a sunroom, a living, dining and kitchen and two decks. There is one principal bathroom space with a separate WC, and an outdoor laundry contained within the building's footprint on the rear deck.

The relocated dwelling is typical in style and character for a Queenslander, comprising a metal sheeted roof and weatherboard cladding. The roof is proposed to be replaced to renew the materiality and resolve any dilapidation issues. It will remain the same structurally and in appearance and is proposed to be grey non-reflective building materials. The distance between the proposed relocated dwelling and the approved secondary dwelling is over 9m. The proposed relocated dwelling is smaller than the primary dwelling approved in DA 10.2023.145.1 of which had a proposed GFA of approximately 117m². The relocated dwelling will have a total GFA of approximately 88m².

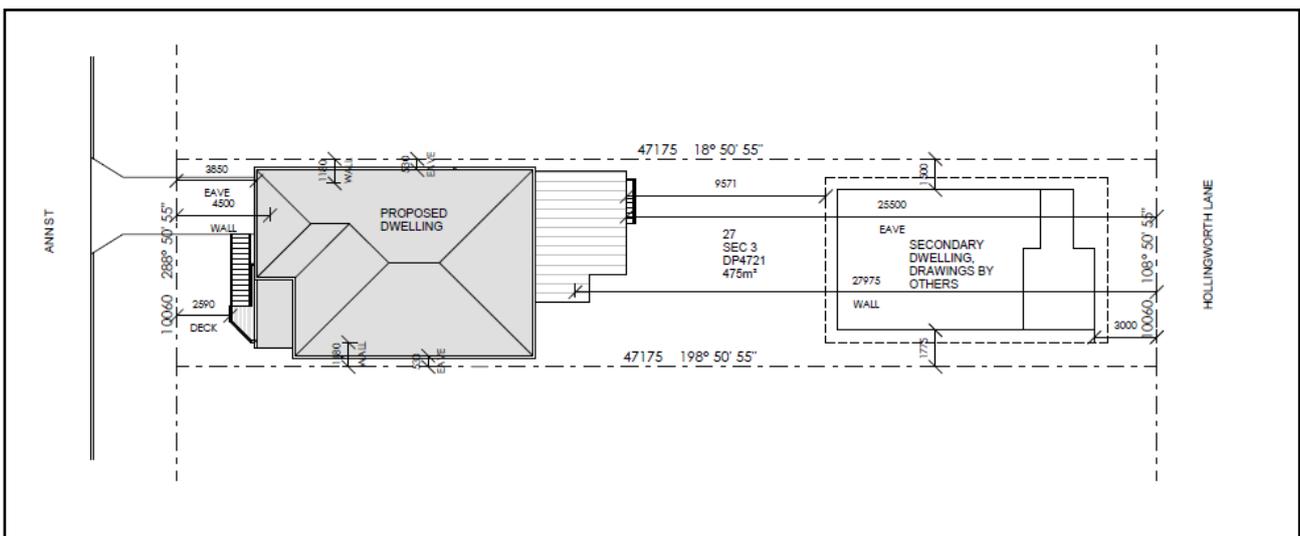


Figure 6: Proposed Site Plan (Source: Evoke Architects)

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 minimal impact on existing vegetation within the site, with no removal of any existing established trees.

4.3 Section 4.14 of the Environmental Planning & Assessment Act 1979

Any development application for the additional development on the subject land would need to have due consideration for the constraints of the land. The property is affected by Potential Acid Sulfate Soils Class 3, flooding and Koala Planning Areas.

An Acid Sulfate Soils Plan of Management for minor works has been prepared and submitted with this application, and discussion of other constraints are included within this report. The property has not been mapped as Bushfire Prone land and no further investigation into this matter has been made.

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 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 subject allotment was registered as part of Deposited Plan 4721 which was created circa 1905. The development site is part of a residential subdivision containing 176 lots.

Until the recent flood event, residential development occupied the site for several decades. The demolition of a principal dwelling and a secondary dwelling was recently endorsed by the NSW Government in response to the flood. All demolition works are undertaken in accordance with relevant Australian Standards. The proposal comprises similar scale residential development to that which occupied the site. The nature of the development and the context of the site are such that further assessment under 'Chapter 4 Remediation of land' is not warranted for this proposal.

Given the history of the site and the residential 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 (Sustainable Buildings) 2022

The proposed relocated dwelling is BASIX exempt development under the Planning Circular – PS 21-016 *Approval to install relocatable and flat-pack homes outside a caravan park or manufactured home estate*. As such, a BASIX certificate has not been prepared.

As a relocatable home is not within the definition of building under the EP&A Act, a BASIX certificate is not required for that type of home. This is the case even if the installation of the home requires development consent. Similarly, a relocatable home does not require a BASIX certificate when moved from one site to another site (because it remains a relocatable home).

State Environmental Planning Policy (Housing) 2021

The principles of this Policy are as follows—

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) minimising adverse climate and environmental impacts of new housing development,*
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) mitigating the loss of existing affordable rental housing.*

The proposal for the Proposed Installation of a Relocated Dwelling offers a diverse housing type and provides residents with a reasonable level of amenity. The proposal complies with the *State Environmental Planning Policy (Housing) 2021*.

The proposal is for a flood affected property where loss of housing has occurred. A relocated dwelling is in direct response to the housing crisis and the particular property owner's circumstance.

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".

The Objectives of the *Byron coast comprehensive koala plan of management*:

- (B)** The Aims of the Plan will be realised by way of the following objectives:
 - a) establishment of a framework for the identification and management of areas of koala habitat and associated koala populations (Section 4 & 5);
 - b) a strategic program of koala habitat regeneration and/or rehabilitation (Section 6);
 - c) an increase in community and public awareness through education programs concerning koala conservation and management (Section 7);
 - d) identification of koala welfare and research needs intended to improve and inform long-term management of the koala planning area's resident koala population(s) (Section 8)
 - e) to outline non-binding activities related to issues such as roadkill and fire management that are intended to encourage better networking and cooperative management between other agencies whose activities can have a significant influence on koala conservation in the planning area (Section 9).
 - f) establishment of procedures for long-term monitoring of the conservation status of the Byron Coast koalas so as to assess the efficacy of the Plan and enable regular review (Section 10);

- g) incorporation of standardised assessment procedures to ensure that adequate detail is provided with development applications, along with an accompanying set of development controls and standards (Section 12);
- h) the provision of requirements for koala habitat compensation for any development that results in unavoidable loss of native vegetation cover (Section 13);

Section 12 – Figure 10 (Development Assessment Flow chart) was 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 Koala Habitat? No.
Consider koala protection requirements in TSC Act, EPBC Act and local policy (DCP, LEP).

As the *Byron coast comprehensive koala plan of management* does not apply a review of the potential and core Koala Habitat has been undertaken:

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.

Is the land core Koala Habitat? No

The *Byron coast comprehensive koala plan of management* has not identified the property and the property is not part of a wildlife corridor. Based on the lack of Koala Habitat and the absence of Koalas, a Koala Plan of Management is not required based on this assessment.

Biodiversity Conservation Act 2016

The property has been used for residential purposes only. There is no impact on endangered or rare animal species, and no trees or plants will be removed for the proposed Installation of a Relocated Dwelling.

The Biodiversity Conservation Regulation 2017 sets out threshold levels for when the Biodiversity Offsets Scheme will be triggered. The threshold has two elements:

- Whether the amount of native vegetation being cleared exceeds a threshold area, or
- Whether the impacts occur on an area mapped on the Biodiversity Values map published by the Minister for the Environment

If clearing and other impacts trigger the Biodiversity Offset Scheme to the proposed development biodiversity impacts prescribed by clause 6.1 of the Biodiversity Regulation 2017.

If the Biodiversity offsets scheme is not triggered, the test of significance detailed in section 7.3 of the Biodiversity Conservation Act 2016 must be used to determine whether a local development is likely to significantly affect threatened species. 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.

RESPONSE: The proposal is unlikely to have an adverse effect on populations of threatened species as no native vegetation is to be removed and no Koala habitat is present on the subject allotment.

- 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 it's 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

RESPONSE: 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,

RESPONSE: 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)

RESPONSE: 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.

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

Byron Local Environmental Plan 2014

The proposed Installation of a Relocated Dwelling 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 for the housing needs of the community within a low-density residential environment.

RESPONSE: The proposed development is in direct response to the housing crisis and loss of accommodation on the property. Two dwellings were lost to the recent 2022 flood events, comprising one primary dwelling and one secondary dwelling.

This application is for a relocated dwelling to be installed on the property in lieu of the no-longer-existing primary dwelling.

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

RESPONSE: The proposed development will continue to enable other land uses for the day to day needs of residents.

Byron L.E.P. 2014 Clause	Comment
Clause 4.3 – Height of buildings	
The maximum height of building permitted under this Clause is 9m.	Complies – The proposed Installation of a Relocated Dwelling will not exceed the permitted maximum height of 9m.
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 prescribed floor space ratio for the subject allotment is 0:5:1. The proposal will not exceed a total possible 474.4m ² of development area. The already approved secondary dwelling will have a total GFA of 60m ² and the proposed relocated dwelling will have a GFA of approximately 88m ² .
Clause 5.21 – Flood planning	
<p>5.21 Flood planning</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(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,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>	<p>Complies – The proposed relocated dwelling is to replace the loss of housing on the subject flood affected allotment. As such it's design and sitting has taken into account flood planning.</p> <p>(a) The proposed relocated dwelling is raised to minimise flood risk</p> <p>(b) The open subfloor of the proposed development is flood compatible</p> <p>(c) The open subfloor will avoid adverse or cumulative impacts on flood behaviour allowing water to travel through the property with minimal obstructions</p> <p>(d) The relocated dwelling has two exits and road access to allow for safe evacuation in a flood event</p>
<p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p>	<p>Complies - The proposed dwelling will have a floor level which is above Byron Shire Council's Flood Planning Level. Refer to discussion under Chapter C2 of Byron Development Control Plan 2014.</p>

Byron L.E.P. 2014 Clause	Comment
<p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>	<p>The proposed relocated dwelling is compatible with flood function and behaviour of the land and will not adversely affect the safe occupation or evacuation of people.</p> <p>Complies – The proposed development can achieve these objectives.</p> <p>The proposed development is designed to withstand a flood event.</p>
Clause 5.22 – Special Flood Considerations	
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to enable the safe occupation and evacuation of people subject to flooding,</p> <p>(b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour,</p> <p>(d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,</p> <p>(e) to avoid adverse effects of hazardous development on the environment during flood events.</p>	<p>Complies – The proposed development is situation on a flood affected property and has taken all flooding impacts and hazard into consideration towards the overall bulk, sitting and design of the proposal.</p>

Byron L.E.P. 2014 Clause	Comment
6.1 Acid sulfate soils	
<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>Class 3: Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</p>	<p>Complies - The subject property is located within an area that is mapped as a Class 3 potential acid sulfate soils area. The proposed development does not include works beyond 1 metres below the natural surface of the ground.</p> <p>Accordingly, an acid sulfate soils assessment is not triggered by the proposal.</p>
Clause 6.2 – Earthworks	
<p>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>Complies – Minor earthworks are required for the installation of the proposed relocated dwelling, such as footings and plumbing connections.</p> <p>There will be no detrimental impact on drainage patterns, no impact on neighbouring properties, nor on the waterways.</p>
Clause 6.6 – Essential Services	
<p>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—</p> <ul style="list-style-type: none"> (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. 	<p>Complies – The proposal has access to the following services:</p> <ul style="list-style-type: none"> (a) A Section 68 application for connections to water supply will be applied for (b) The property is serviced by Essential Energy (c) A Section 68 application for connections to Council’s sewer system will be applied for (d) Stormwater will be directed into Councils existing infrastructure (e) Suitable vehicular access into the property has been approved as part of a Section 138 approval No. 51.2022.426.1

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 B1.2.3 Koala Habitat	
Objectives <ol style="list-style-type: none"> 1. To protect the remaining koala populations and koala habitat in Byron Shire through the principle of avoidance. 2. To increase the total area of koala habitat within the identified koala planning area and across the broader Local Government Area by at least 25% including consolidated linkages within and beyond the identified koala planning area. 3. To maintain the presence of a self-sustaining koala population within the coastal area and undertake the identification of koala populations in the surrounding areas and hinterland. 4. To identify areas known to have koala populations as evidenced by land containing koala use trees species (Appendix 1) listed in Schedule 2 for the North Coast Koala Management Area within the Koala Habitat Protection SEPP 2019 and; a. historical koala records (within a 2.5km range of koala habitat) that establish generational persistence and or, b. records of breeding females, or c. sufficient survey to establish generational persistence 	Complies – The proposal will have no measurable impact on the koala populations and koala habitat.
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	Complies – There is no proposal to remove any existing trees.
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. 	Complies – The proposed development will be provided with all the required essential services.

DCP Chapter	Comment
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 proposed in the subfloor of the relocated dwelling, sufficient off-street car parking spaces can be provided.</p> <p>Access from Ann Street is proposed.</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. 4. To provide standards for various types of buffers that aim to avoid conflicts or reduce them to acceptable levels. 5. 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. 	<p>Complies – The development site and all the surrounding freehold properties are zoned for low density residential dwellings.</p>
B6.2.4 Buffers – Objectives	
<ol style="list-style-type: none"> 1. To avoid land use conflicts between proposed new development and existing, legitimate land uses. 2. 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. 3. To provide for existing, legitimate agricultural and 	<p>Complies – Suitable buffers are existing for the property in what is a normal residential setting. Existing fencing runs along the side and rear boundaries and adequate landscaping is proposed around development.</p>

DCP Chapter	Comment
<p>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> <p>4. To protect significant environmental and natural resources through incorporation of buffers into developments.</p>	
Chapter B7 – Mosquitoes and Biting Midges	
Chapter B7.2.2 Strategies and Guidelines for proposed development within risk zones.	
<p>Objectives</p> <ol style="list-style-type: none"> 1. To identify minimum mosquito and biting midge mitigation strategies for proposed development in risk zones. 2. To provide mosquito and biting midge management guidelines for proposed new development. 	<p>Complies – All new proposed windows, doors and other openings will have insect screening.</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"> 1. To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources. 2. To minimise demolition waste by promoting adaptability in building design and focussing upon end of life deconstruction. 3. To encourage building designs, construction and demolition techniques in general which minimise waste generation. 4. To maximise reuse and recycling of household waste and industrial/commercial waste. <p>Waste management</p> <ol style="list-style-type: none"> 5. To assist applicants in planning for sustainable waste management, through the preparation of a Site Waste Minimisation and Management Plan. 6. To assist applicants to develop systems for waste management that ensure waste is transported and disposed of in a lawful manner. 7. To provide guidance in regards to space, storage, amenity and management of waste management facilities. 8. To ensure waste management systems are compatible with collection services. 9. To minimise risks associated with waste management at all stages of development. 	<p>Complies – A Site Waste Minimisation and Management Plan has been submitted with this Development Application.</p>
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. 	<p>Complies – All existing vegetation and landscaping on the property is minimal and will be retained and enhanced.</p>

DCP Chapter	Comment
<ol style="list-style-type: none"> 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>Adequate landscaping is to be provided around the new development.</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 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 earthworks. 7. To minimise risks of geotechnical instability, landslip and surface movement associated with development. 	<p>Complies – There are minimal excavation works proposed given that the structure is elevated and requires only footings and plumbing connections.</p> <p>Appropriate sediment and erosion controls will be applied during construction.</p>
Chapter B14.2 Excavation and Fill in all Zones	
<p>Objectives</p> <ol style="list-style-type: none"> 1. To ensure that towns, villages, commercial, industrial, residential and rural areas maintain overall compatibility with the Shire's natural features and its historical built character. 	<p>Complies – The proposed development requires minor excavation for footings and will comply with these objectives.</p>

DCP Chapter	Comment
<p>2. To control the extent, character, bulk and scale of earthworks so that both individual and cumulative earthworks over time do not detract from the existing and desired future character of their immediate locality, and the surrounding area.</p> <p>3. To promote the use of earthworks to create landscapes and streetscapes that make a positive contribution to the existing and desired future character of their immediate locality and the surrounding area.</p>	<p>No fill is proposed.</p>
<p>Chapter C2 – Areas affected by flood</p>	
<p>C2.1.2 Objectives of this Chapter</p>	
<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>Complies – Development is proposed to be flood compatible by being substantially raised.</p> <p>The allotment is located within the Brunswick River catchment.</p> <p>Byron Shire Council issued a development consent for the adjoining allotment providing a Flood Planning Level of 4.01m AHD for the locality. The subject property is within a Low Hazard area</p>
<p>C2.2 General Assessment Criteria</p>	
<p>C2.2 General Assessment Criteria</p> <ol style="list-style-type: none"> 1. Council will not consent to any development on land at or below the flood planning level if there is sufficient suitable area on that land above the flood planning level on which to carry out the development. 2. Where the development is on land below the flood planning level, floor levels of any buildings must be constructed at or the above the flood planning level. Council will not support filling beneath the building footprint of the proposed development unless it is demonstrated that it will not adversely impact on the floodplain. Filling outside the building footprint generally will not be permitted, other than for driveways and/or pedestrian pathways immediately adjoining the walls of the building. 3. Where extensive additions are proposed to lightweight buildings (e.g. timber, fibro) the applicant should consider redesigning the whole building to comply with current flood planning controls. 4. The adaptability of the development in the face of climate change will be considered as part of the development process. Adaptable developments have the ability to be designed to the Projected 2050 Flood Planning Level instead of the Projected 2100 Flood Planning Level in most instances. 	<p>The entire property is located below the Flood Planning Level. The proposed dwellings have raised habitable floor levels that are above the Flood Planning Level.</p> <p>No filling works are proposed other than minor works to provide access to the vehicle parking area of the dwelling.</p> <p>The proposal comprises the installation of one relocated dwelling that is above the Flood Planning Level.</p>

DCP Chapter	Comment
C2.3 Development Controls	
<p>The following steps should be taken to ascertain the flood planning controls relating to development on land at or below the future flood planning level:</p> <p>Step 1 Consider the applicable Flood Study for the catchment in which the land is situated, in relation to flood hazard and floor level requirements (Section C2.3.1).</p>	<p>The applicable Flood Study is the North Byron Floodplain Risk Management Study and Plan.</p>
<p>Step 2 Consider the specific Flood Planning provisions for the type of development and flood hazard as set out in the flood planning matrix (Table C2.1 below).</p>	<p>The proposal comprises a new relocated dwelling to act as the primary dwelling within the subject site. The following provisions of the Matrix apply:</p> <ul style="list-style-type: none"> • Flood planning control: Primary Constraint - Note that the following is based on an assessment of the development being located within a Low Hazard area of the site • Land Use Suitability & Fill Level: SF1 – Consider development subject to the controls below • Floor Level: FL2 – Floor level to meet 2050 Flood Planning Level • Building Components: BC1 – Use flood compatible material below the FPL • Structural Soundness: SS1 – Meet BCA • Flood Effect: FE2 – Council to consider • Evacuation & Access: EA1 – Council to provide info on flood evacuation strategy
<p>Step 3 Consider any special requirements or standard designs for particular localities (Section C2.3.5).</p>	<p>No special requirements or standard designs are applicable to the site.</p>
C2.3.2 Minimum Floor Levels	
<p>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 'nonhabitable' rooms is more than 1.0 metre below the 1:100 year flood level.</p>	<p>Complies - The floor levels of the proposed dwelling meets the Flood Planning Level for the locality.</p>
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. 	<p>Complies - The proposed development achieves these aims and objectives.</p>

DCP Chapter	Comment
<ol style="list-style-type: none"> 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. 	
Chapter D1.2.1 Building Height Plane	
Objectives	
<ol style="list-style-type: none"> 1. To ensure that residential development is designed to minimise impacts on solar access and privacy on adjoining properties, and on the views from adjacent existing buildings. 2. To ensure that the occupants of the building or buildings will enjoy the optimum use of winter sunlight and summer shade. 	<p>Complies –The proposed development will not exceed the height building restriction of 9m and does not encroach on setback provisions.</p>
Prescriptive Measures	
<ol style="list-style-type: none"> 1. The building height plane in combination with boundary setbacks prescribed in this DCP, and building height prescribed in the Byron LEP 2014, form the maximum 2. Variation to the building height plane may be considered in relation to one or more boundaries in the following circumstances: <ol style="list-style-type: none"> a) where the floor level is required to be above ground level to comply with Council's requirements for flood protection; or b) for the zero lot line boundaries of semi-detached dwellings and attached dwellings; or c) in circumstances referred to in Prescriptive Measure 2. of Section D1.2.2. d) where unavoidable site constraints (slope, orientation, configuration/shape) intensify off-site impacts such as overshadowing (provided the impacts are addressed in accordance with Development Controls related to Privacy and Solar Access) and mitigation measures are included in the design to the fullest extent possible. 	<p>Complies - Breaches of the building height plane on the eastern and western property boundaries given the required raising of structures to provide for flood compatible development.</p> <p>A variation to the building height plane controls is a reasonable request to facilitate the replacement of flood affected homes with new buildings. The proposed development is very similar to that approved within the adjoining Lot 28 Sec 3 DP 4721. The landowner has an expectation that the same dispensation to the building height plane controls be applied to the subject development within Lot 27 Sec 3 DP 4721.</p>
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>Complies – The proposed development will meet these aims and objectives.</p> <p>The flat topography of the area is such that views are not a consideration in this assessment. The dwelling includes a raised deck space on its northern and southern side to provide private open space for the residents.</p>

DCP Chapter	Comment
<p>Performance Criteria</p> <ol style="list-style-type: none"> 1. Setback requirements may be flexible provided they are demonstrated to achieve the above Objectives and Performance Criteria. 2. The street façade of a building, and any open space between it and the street must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping. A reasonable degree of integration with the existing pattern of setbacks must be balanced with the need to provide variety in the streetscape. 3. Private open space and common landscaped areas of the site must be useable as part of the living environment available for the occupants of the development. Council will discourage the provision of bare spaces between buildings and the street which are unusable because they lack privacy, or because they are inappropriately planned or treated for climate control. 4. The setback from a street frontage for a building that is part of a residential development will be determined on its merits, having regard to: <ol style="list-style-type: none"> a) the Objectives; b) any provisions of this DCP applying to the specific location; c) the position of any existing buildings in the locality; d) the size and shape of the allotment; e) the effect on vehicular safety and visibility, particularly on corner sites; f) the orientation of the allotment and the proposed dwelling with regard to the sun and prevailing winds; g) the proposed location of any private open space, courtyard or landscaped areas; h) the facade of the proposed building or buildings which will face the street and the proposed landscape treatment of that part of the allotment which is visible from the street; i) the location and treatment of any car parking areas or car parking structures on the site. 5. Notwithstanding any of the above criteria, buildings must comply with the building height plane as detailed in Section D1.2.1. 6. Dwelling house development may be permitted to encroach into the side setback and building height plane where it enhances the design of buildings, complements the streetscape and does not adversely affect privacy, solar access, microclimate, traffic safety or amenity of adjoining development. 7. When considering applications for variations to minimum setbacks nominated below in the Prescriptive Measures, Council will have regard to: <ol style="list-style-type: none"> a) the Objectives; b) compliance with the Performance Criteria; c) the visual impact of the variation on the streetscape; d) the impact of the variation on the amenity, privacy, views and access of surrounding properties; e) the existing and future status of the road; f) potential traffic impacts and required sight lines as per 	<p>Complies - The existing street frontage will be maintained.</p> <p>The proposed relocated dwelling will be setback 4.5m to the front boundary. The proposed stair and deck that gives access to the relocated dwelling will be setback over 2.5m from the road fronting boundary.</p> <p>Complies - Private open space and common landscaped areas are achieved in this proposal and will be maintained and enhanced.</p> <p>Complies – The proposal will not adversely affect neighbouring allotments in terms of privacy, solar access or amenity.</p>

DCP Chapter	Comment
<p>AS2890; and g) compliance with the Building Code of Australia.</p> <p>8. The Development must seek to minimize any impacts on neighbouring properties through considerate siting and design.</p>	<p>Complies – There will be no negative effect to the neighbouring properties.</p>
Chapter D1.2.3 Privacy	
<p>Objectives</p> <p>1. To ensure buildings do not unduly affect existing or future development on adjoining properties by impinging on privacy or obstructing views.</p> <p>2. To ensure buildings are designed to optimise privacy for internal and external spaces while allowing for casual surveillance of the street and other public spaces.</p> <p>3. To ensure that building design is cognisant of site constraints (slope, orientation, configuration/shape) and addresses privacy accordingly.</p>	<p>Complies – There will be no adverse effects the privacy of neighbouring allotments or views.</p> <p>The relocated dwelling has been sited in consideration of the site's constraints.</p>
Chapter D1.2.4 Solar Access	
<p>Objectives</p> <p>1. To ensure that residential development is designed to optimise solar access and thereby not significantly overshadow living areas (decks, living rooms, bedrooms, kitchens etc.), private open spaces and existing solar power installations of both the development site and adjoining properties.</p> <p>Performance Criteria</p> <p>1. Development must be designed cognisant of microclimate to promote energy efficiency and ensure that residents of the development site enjoy optimum use of winter sunlight and summer shade in living areas (decks, living rooms, bedrooms, kitchens etc.) and private open space.</p> <p>2. Development must respond to the constraints of the site (e.g., slope, orientation, configuration) and be appropriately located to ensure residential development does not significantly overshadow the living areas (decks, living rooms, bedrooms, kitchen, bedroom etc.) and private open spaces of adjoining properties.</p> <p>3. Development must ensure that living areas (decks, living rooms, bedrooms, kitchens, etc.), private open spaces and existing solar power installations of development on the site and adjoining properties will have solar access between the hours of 9.00am to 3.00pm on any day.</p>	<p>Complies – The proposed relocated dwelling is sited and designed with the site and in consideration to neighbouring allotments.</p> <p>Given the spatial separation between buildings, adequate natural light can be achieved within the dwelling.</p> <p>The rear deck used for outdoor entertaining will profit from the northerly solar access and the living areas orientated to face Ann Street will profit from easterly solar access.</p>
Chapter D1.2.5 Screening the Underfloor Space of Buildings	
<p>Objectives</p> <p>1. To improve the external appearance of elevated buildings.</p> <p>2. To provide for compatibility in appearance and character between buildings in the locality.</p> <p>Performance Criteria</p> <p>1. The underfloor space of elevated buildings must be provided with infill panelling, advanced landscaping or other forms of visual screening to improve the external appearance of the building and to ensure compatibility with other development in the locality.</p>	<p>N/A – No screening is proposed for the underfloor space of the proposed relocated dwelling as the allotment is flood prone.</p> <p>Keeping the underfloor open is to avoid any flood water retention in a future flood event.</p>

DCP Chapter	Comment
<p>2. In flood liable land the screening of the underfloor space of elevated buildings may not be appropriate. Screening below the flood planning level must have openings to allow for entry and exit of flood water and must be structurally adequate and not reduce the structural capacity of the building during a 1 in 100 year flood event.</p> <p>3. Where buildings are proposed on bush fire prone land, underfloor screening may be required to comply with specific requirements prescribed by the Building Code of Australia and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.</p>	
Chapter D1.2.6 Character and Visual Impact	
<p>Objectives</p> <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>Complies - The proposed development achieves these aims and objectives.</p> <p>The roof to be replaced will be the same as existing, in grey non-reflective building materials.</p>
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. 7. To ensure provision for access by safety and emergency vehicles and personnel. 	<p>Complies – Fences to the side and rear are existing and provide adequate privacy, noise reduction and security to the property.</p> <p>No changes are proposed to the existing fences.</p>
Chapter D1.2.8 Balconies	
<p>Objectives 1. To ensure that the visual character of balconies is consistent with and does not dominate the design of residential buildings.</p> <p>Performance Criteria Balconies must not dominate the visual character of buildings or development. The design of balconies must be consistent in character with the building and development in terms of materials, colours, dimensions, bulk, scale and proportion.</p>	<p>Complies – The two elevated decks to the front and rear of the relocated dwelling will not dominate the design.</p> <p>Given that the dwelling comprises a re-used Queenslander, it is considered sympathetic and compatible with the locality in terms of design.</p>

DCP Chapter	Comment
Chapter D1.2.9 Pedestrian and Cycle Access	
Objectives 1. To reduce car dependence through the promotion of alternative forms of transport. 2. To assist in the delivery of Council's adopted bike plan where possible. 3. To provide an expansion of the existing pedestrian/ cycleways to improve connectivity throughout the Shire.	N/A – There are no proposed changes to the existing pedestrian and cycle access to the property. Adequate bicycle parking in the property can be provided.
Chapter D1.2.10 Garage to Habitable Space Conversions	
Objectives 1. To ensure that adequate parking is provided when garages are converted to habitable space. Performance Criteria 1. Development applications seeking to convert a garage to a habitable space must provide an alternate parking solution in accordance with Chapter B4 and Chapter D1.2.2. 2. Applicants at the head of a cul-de-sac should seek to retain garages and carparking and look for alternate solutions when siting a secondary dwelling or developing habitable space.	N/A
Chapter D1.2.11 Energy Efficiency	
Objectives 1. To reduce greenhouse gas emissions created from residential development 2. To increase thermal comfort and efficiency for residential development Performance Criteria 1. Buildings for habitable purposes should seek to incorporate measures to reduce energy consumption, reduce reticulated water consumptions and improve thermal comfort. 2. Where possible, development should seek to fit or retrofit energy efficient fixtures and fittings to reduce greenhouse gas emissions.	Complies – The proposal seeks to reduce greenhouse gas emission and increase thermal comfort an efficiency. A BASIX certificate has not been prepared in accordance with – PS 21-016 <i>Approval to install relocatable and flat-pack homes outside a caravan park or manufactured home estate.</i>
Chapter D1.2.12 Internal Access between Storeys in Residential Development	
Objectives 1. To ensure connectivity between the floors of Dwelling houses Performance Criteria 1. Dwellings with more than one habitable storey must demonstrate how the residents can easily access both levels of the dwelling in all weather conditions. Prescriptive Measure 1. Each habitable floor of a multi-storey dwelling house must be connected by an internal staircase (garage and laundry excluded).	Complies – The new proposed staircase is internal and provides easy access to both levels.
Chapter D1.3 Dwelling Houses	
Chapter D1.3.1 On-Site Car Parking	
Performance Criteria 1. Car parking must be provided on the site in a manner which is convenient in terms of access for residents of the dwelling; safe and accessible in terms of visibility,	Complies – On-site car parking is proposed in this application.

DCP Chapter	Comment
<p>turning and manoeuvring capabilities; and visually compatible with the site and its locality.</p> <p>2. Car parking structures, including garages and carports, which are visible from the street must be compatible with the dwelling in terms of design and materials, and may form part of the dwelling structure.</p>	
Chapter D1.3.2 Landscaping	
<p>Objectives</p> <p>1. To enhance the visual quality of residential areas and to improve the residential amenity of the Shire.</p> <p>2. To limit stormwater runoff from residential areas.</p>	Complies – Appropriate landscaping around development will be achieved.
Chapter D1.3.2 Landscaping	
<p>Objectives</p> <p>1. To ensure that adequate accessible and useable open space is provided to meet the recreational, gardening and landscape needs of residents.</p>	Complies – Given the size of the allotment in proportion to the scale of the proposed development., adequate private open spaces can be achieved.
Chapter E3 Mullumbimby	
E3.5 Urban Design and Infill Development	
<p>Objectives</p> <p>1. To specify urban design guidelines for development within established urban areas of Mullumbimby.</p> <p>2. To protect the established streetscape character of Mullumbimby's older residential and commercial precincts.</p> <p>3. To ensure that new development in established urban areas will be consistent with and will enhance the low rise scale and heritage character of Mullumbimby.</p>	<p>Complies - Ann Street & Hollingworth Lane contains a mix of building designs and vacant lots. The proposed construction does not compromise the streetscape. The proposal involves one relocated dwelling in lieu of the Primary Dwelling as approved in DA 10.2023.145.1 of which also approved a secondary dwelling with frontage to Hollingworth Lane. As a result of this development there will be two dwellings on the lot which aligns with the existing scale of development in the locality. As the relocated dwelling proposed in this application is a Queenslander, it is considered appropriate within the urban fabric. The site is not within a heritage character area.</p>
E3.6 Infill Development in Precincts 2 and 3	
<p>Objectives</p> <p>1. To ensure infill development in Precincts 2 and 3 occurs in a co-ordinated manner.</p> <p>2. To ensure vehicle and pedestrian safety and residential amenity is maintained.</p> <p>3. To encourage urban consolidation of underdeveloped residential lots in close proximity to Precinct 1.</p>	<p>The proposed development is located within a Precinct 3 under the Mullumbimby Chapter of DCP 2014. The proposed development has been designed in consideration of Development Control Plan 2014 and the development surrounding the site.</p>

DCP Chapter	Comment
	<p>The low traffic volumes of Ann Street and Hollingworth Lane can accommodate development without compromising vehicle or pedestrian safety within the locality.</p> <p>The site is located within 550 metres by foot to Precinct 1. The proposed development increases residential development within the underutilised site.</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* 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.

RESPONSE: A review of the existing measures contained in the building has occurred as part of this application and additional fire safety measures will be installed as part of the construction certification where the development is approved so as to ensure that the development is brought into conformity with the *Building Code of Australia*.

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 is situated within a 474.6 square metre property. The site once contained an established dwelling and secondary dwelling. Minor variations to the building height plane controls are justified given the flood affected nature of the property and existing buildings within the area. The proposed development has been designed to complement the existing dwelling within the locality.

The proposed development will not adversely affect solar access, privacy or the views for neighbouring sites. The site contains vacant land due to flood loss. The colours and materials of the proposed development will remain consistent with the character of the area.

Impacts on the Natural Environment

The residential site has minimal existing vegetation, and additional landscaping will be provided around the proposed development. Given that the property is mostly cleared, there is minimal disturbance expected to the existing landscaping.

The proposed development site is affected by flooding or acid sulfate soils and the proposed relocated dwelling has considered these factors. The scenic quality of the area will not be impacted upon by the proposed development as it is in keeping with the style and character of the locality. Prior to the flood event there was two existing dwellings on the property and as such, the proposed development is consistent with the history of the site. 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 the proposed development does not require the removal of any trees and will not impact on any threatened species.

- 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 Installation of a Relocated Dwelling will contribute positive social and economic benefits to the wider community.

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

None of the surrounding uses present any major conflicts for the proposed uses of the subject site. The property is set back into the site, fronting primarily Ann Street and an adjoining rear boundary with Hollingsworth Lane.

All environmental hazards and constraints have been considered in the design to 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 considered 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 any adjoining neighbouring dwellings, the landscaping 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.

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 Installation of a Relocated Dwelling.

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 Low Density 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 – Survey Plan

Annexure 2 – Architectural Plans

Annexure 3 – Acid Sulfate Soils Management Plan for Minor Works

Annexure 4 - Planning Circular – PS 21-016 *Approval to install relocatable and flat-pack homes outside a caravan park or manufactured home estate*

Annexure 5 – Geotechnical Report

Annexure 6 – Statement of Environmental Effects

Annexure 7 – Estimated cost of works

Annexure 8 – Site Waste Minimisation Plan

Annexure 9 – Owners Consent & Letter of Authorisation