
VISUAL IMPACT STATEMENT

Proposed demolition of existing structures
and construction of a new dwelling to form a
dual occupancy (detached) development
and strata subdivision to create two lots

No. 23 Marine Parade, Byron Bay (Lot 4 DP 244699)
and adjoining Crown Land (Lot 7009 DP 1026798) and Road Reserve

TOWN PLANNING STUDIO

18 December 2024

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A	Photographs of Existing Development within the Wategos Beach Locality
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1.0 Introduction

This Visual Impact Statement has been prepared as part of a Development Application and Environmental Impact Statement to be submitted to Byron Shire Council. The Development Application relates to a proposal to demolish an existing garage and construct a new dual occupancy (detached) dwelling within the subject site.

Relevant planning definitions from Byron Development Control Plan (DCP) 2014

Visually prominent development means any development located on a visually prominent site or development in a location that has the potential to impact the visual or scenic character of a visually prominent site.

Visually prominent site means land that is wholly or partly within the coastal zone; and land in Zone RU1 Primary Production, RU2 Rural Landscape with a height of 60m AHD or greater.

Coastal zone means the same as it does in the Coastal Management Act 2016 i.e.

- (a) the coastal wetlands and littoral rainforests area
- (b) the coastal vulnerability area
- (c) the coastal environment area
- (d) the coastal use area

Note on the use of this document

This document has been prepared for the use of Byron Shire Council, as the consent authority, for determining a Development Application for carrying out development on the site. The document is to be used to assist in the assessment of a Development Application and is not intended to be used for any other purpose. This document is protected by copyright.

2.0 Description of the site

Location and site description

The proposed development primarily relates to an 803.2 square metre allotment of land and located within the Wategos Beach residential locality, which is part of the Byron Bay township. The privately owned allotment is formally described as Lot 4 in Deposited Plan 244699. It is located at No. 23 Marine Parade, Byron Bay. The Byron Bay locality is located within the east of the Byron Local Government Area. Refer to Figure 1 below which shows the location of the site in context to the Byron Local Government Area. Refer to Figure 2 which shows the location of the site within the Byron Bay locality.

The proposed development also involves works within Crown Land adjoining to the east of the privately owned allotment and within the road reserve to the north.

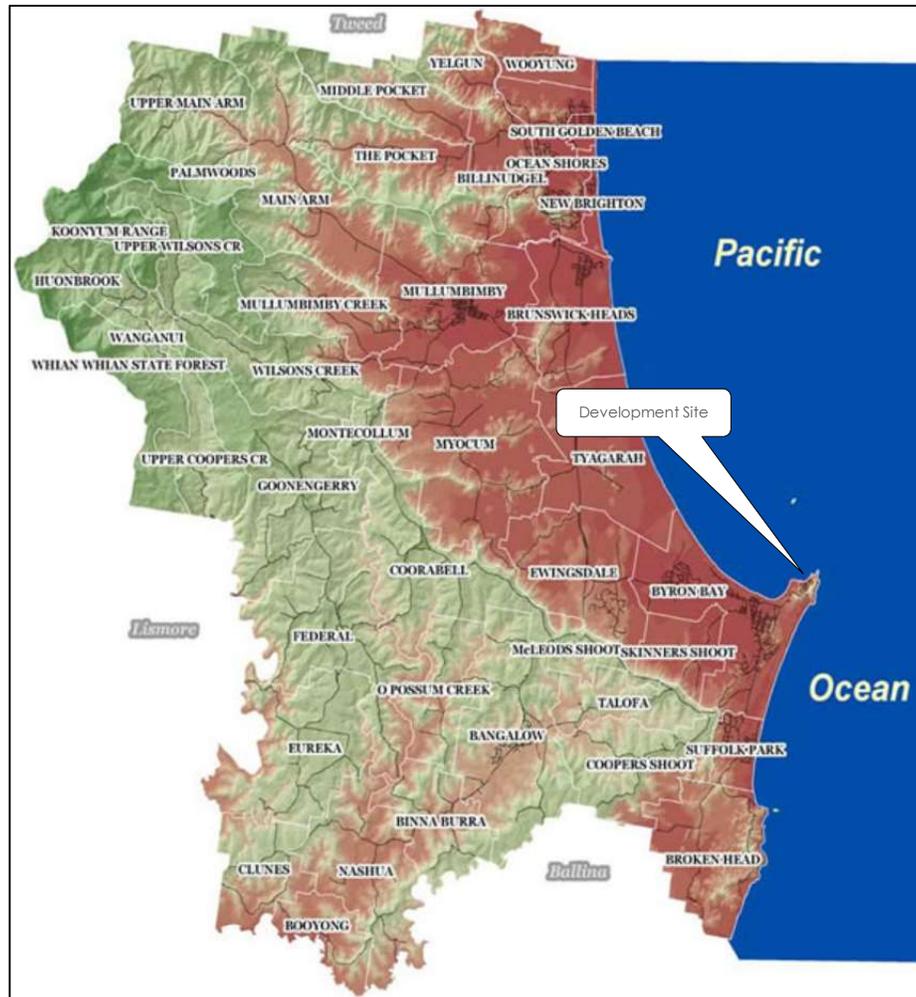


Figure 1 – Location Plan showing the site of the proposed development within the Byron Local Government Area (Byron Shire Council)



Figure 2 – Byron Bay Locality Plan (NSW LPI)

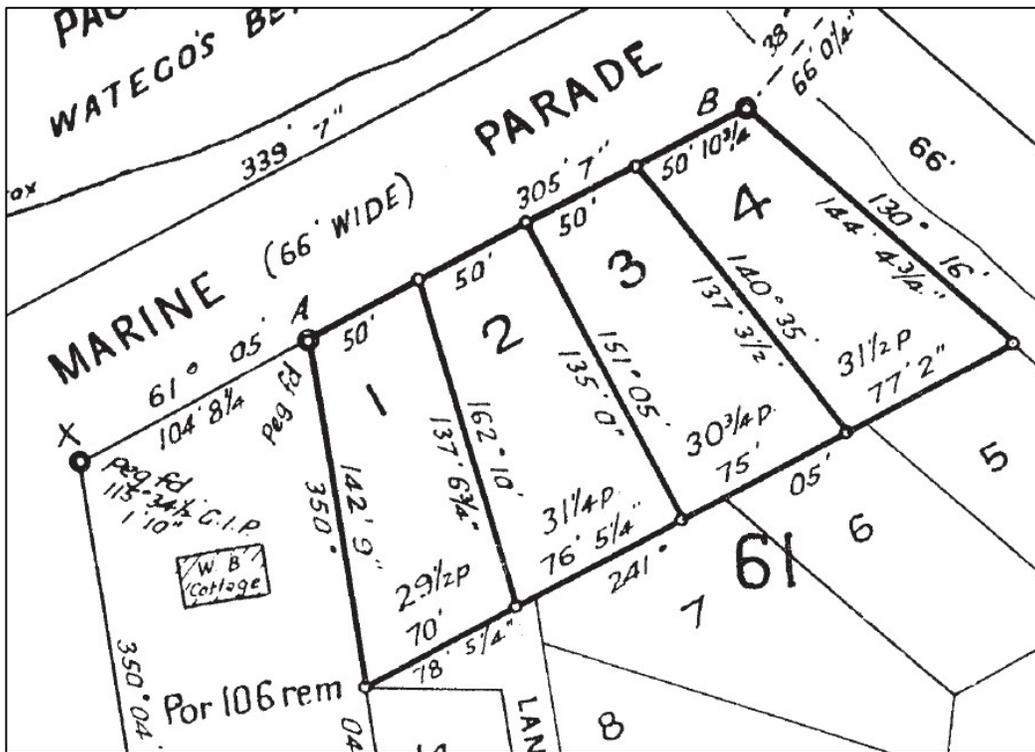


Figure 3 – Extract from Deposited Plan 244699 showing Lot 4 (NSW LPI)

Lot 4 DP 244699 has a four sided configuration with a slope from south to north towards Marine Parade. The levels of the land range from 7.55 metres AHD at the north-eastern corner of the property, to 20.65 metres AHD at the south-eastern corner.

Vehicle access to the site is available from both Marine Parade and the rear lane (Pandanus Place). The existing dwelling uses the rear lane access. A garage space within the north of the property is provided with an access driveway from Marine Parade, however this driveway extends into the adjoining Crown reserve and cannot be used as part of the proposed development.

Refer to Figure 5 for aerial photograph of the site.

Improvements and Land Uses

Lot 4 DP 244699 contains an established single storey dwelling with associated vehicle access and parking. Two driveways are provided to the property, one from Marine Parade to the north and the other from Pandanus Place to the south. An uncovered parking area is located on the southern side of the existing dwelling. A double vehicle garage is located within the north of the property (with access from Marine Parade). A review of historic planning files for the property issued by Byron Shire Council located a number of approvals, including approvals for the existing dwelling and garage.

Vegetation cover

The property contains predominantly planted landscape vegetation, but also contains some native plants that are endemic to the local area.

A detailed description of the vegetation within the site is provided within the Biodiversity Development Assessment Report that is attached as an Annexure to this document.

Soil conditions

The following description has been reproduced from the attached Report on Geotechnical Site Investigation prepared by OB Geotechnics:

Reference to geological mapping by the Geological Survey of New South Wales 1:250,000 series 'Tweed Heads' sheet indicates the site is underlain by formation from the Silurian aged of Palaeozoic Era and from the Neranleigh-Fernvale Group, which typically comprise "Greywacke, Slate Phyllite Quartzite".

The report confirms that the site of the proposed development is classified as a "Class P" site in accordance with the provisions of AS 2870-20116 (Residential Slab and Footings). It also notes that acid sulfate soils are not present in this area, based on mapping from the NSW Planning Portal Spatial Viewer.

Zoning

The private property and the adjoining Crown Land and road reserve are located within the R2 Low Density Residential Zone under Byron Local Environmental Plan 2014.

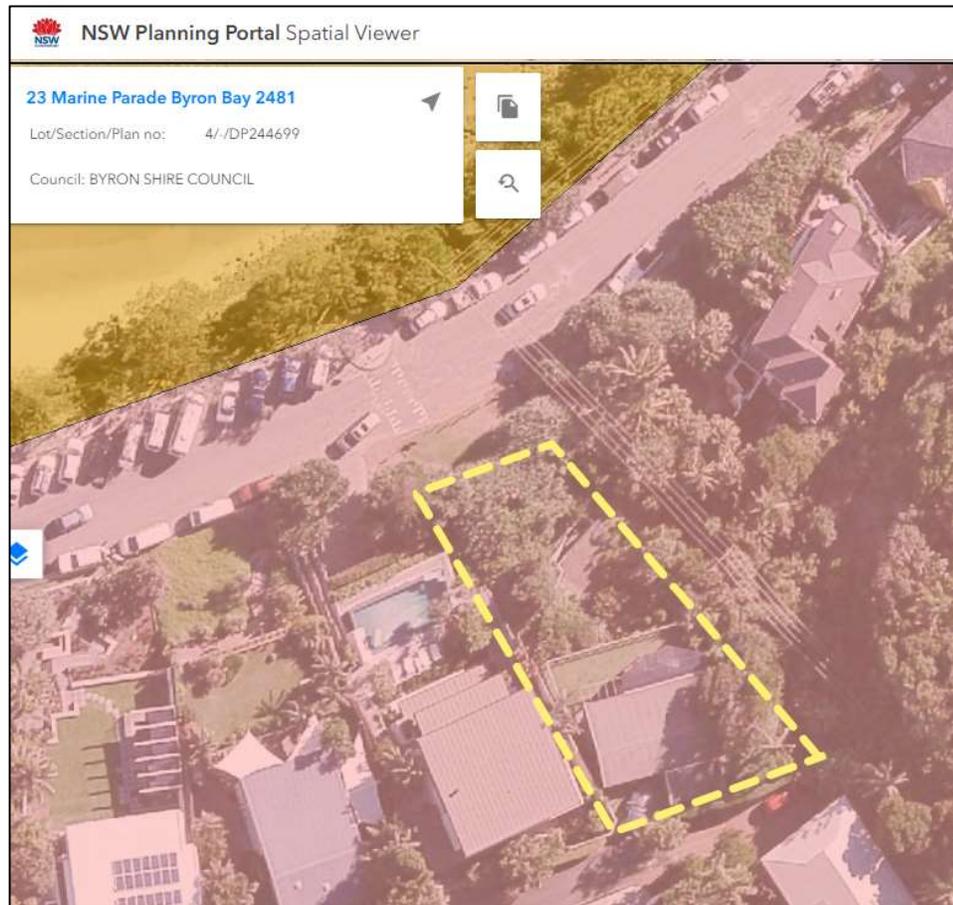


Figure 4 – Zoning Plan (NSW Planning Portal Spatial Viewer)

Surrounding Land Uses

The adjoining allotment to the west comprises a privately owned property that contains a multi level dwelling. A privately owned property containing a double storey dwelling adjoins to the south. A two storey dwelling occupies a residential allotment on the opposite side of the Crown Land to the east. Wategos Beach is located on the opposite side of Marine Parade to the north.

Services

The allotment has access to the following services:

- Water Supply – a Byron Shire Council water main is located within the Marine Parade road reserve to the north of the property. The existing dwelling is connected to this supply.
- Sewerage Connection – a Byron Shire Council sewer main is also located within the adjacent Marine Parade road reserve. The existing dwelling in the south of the site is connected to the Council sewer network.
- Telecommunications – provided to the property via Telstra/NBN infrastructure (extending from the Marine Parade road reserve).

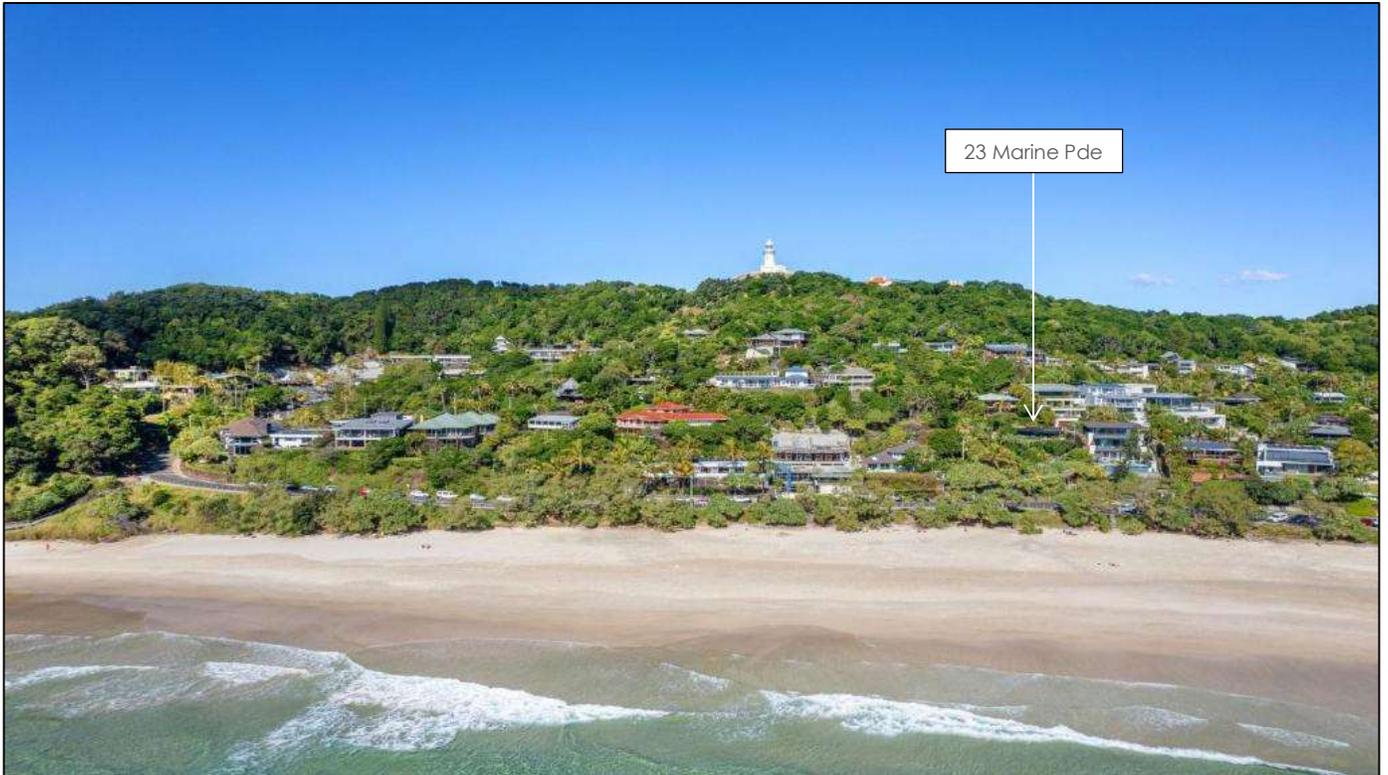
- Electricity – overhead electricity lines pass through the adjoining Crown Land from Marine Parade to Brownell Drive. The existing dwelling in the south of the private lot is connected to this service.
- Stormwater drainage – stormwater naturally drains to the north towards the adjacent road reserve.
- Waste and Recyclables Collection – available within the Byron Bay locality with roadside collection.

Constraints

Byron Shire Council's online mapping tool indicates that the property is subjected to bush fire hazards. However, the land is not within a mapped acid sulfate soil area, a coastal erosion area or a flood area.



Figure 5 – Aerial Photograph of the Site (Metromap)



Drone Photograph – View towards development site from above ocean showing vegetation at the front of the property and within the Marine Parade road reserve and residential development forming a backdrop

3.0 Description of the proposal

Development consent is sought to demolish existing structures and construct a new dwelling to form a dual occupancy (detached) development within the allotment. It is also proposed to subdivide the property into two strata lots. Demolition works include the removal of a garage, driveway, retaining structures and a staircase, some of which encroach into the adjoining Crown Land.

The proposed dwelling comprises a two storey construction located within the northern half of the property. The upper level contains three bedrooms, two bathrooms, kitchen and living spaces. The lower level contains a double vehicle garage, a laundry, storage and a WC. A total gross floor area of 167 square metres is proposed.

The built form includes a skillion roof over masonry walls on concrete flooring. Timber battens are proposed on the external walls to give the appearance of lightweight construction. An improved driveway and turning area are proposed within the site. Landscaping is proposed adjacent to the new dwelling. Vegetation management works are also proposed within the adjoining Crown Land.

The proposed dwelling has a setback of 5.0 metres to the eastern property boundary, 2.0 metres to the western property boundary and 6.5 metres to the Marine Parade street frontage. The proposed building has been carefully located to maintain a bush fire buffer to the adjacent Crown Reserve without requiring the removal of significant native vegetation.

Refer to the Annexures of the Environmental Impact Statement for Architectural plans of the proposed dwelling prepared by Harley Graham Architects. These plans are accompanied by a BASIX Certificate to meet energy efficiency requirements under State Environmental Planning Policy (Sustainable Buildings) 2022.

4.0 Byron DCP 2014 visual impact considerations

4.1 Objectives

The objectives nominated within Chapter C3.2.1 of Byron Development Control Plan 2014 are listed below:

1. *To retain and enhance the unique character of Byron Shire and its towns, villages, rural, coastal and natural areas.*
2. *To ensure that development does not adversely impact on the Shire's scenic character and visual quality.*
3. *To ensure that where possible new development contributes to enhancement of the Shire's scenic character and visual quality.*
4. *To ensure adequate information is available to properly assess visual impact.*

The proposal's consistency with the above Objectives is achieved through compliance with the Prescriptive Measures of Chapter C3.2.1 of Byron Development Control Plan 2014 as discussed within Section 4.2 below.

4.2 Prescriptive Measures

The Prescriptive Measures nominated within Chapter C3.2.1 of Byron Development Control Plan 2014 are reproduced below with a comment in relation to the proposed development provided for each:

Unless Council determines in a particular case that the proposed development is not likely to create adverse visual impacts, Development Applications seeking consent for visually prominent development must be accompanied by a Visual Impact Statement that includes, but is not necessarily limited to the items listed in the following table:

Prescriptive Measure	Comment
1. Detailed description and photographs of the site and surrounds, including existing vegetation, topography, slope, surrounding development and other features that may affect visual impact;	Refer to Section 2.0 and the Annexures of this document.
2. Description of the proposed development, including proposed earthworks, vegetation removal, built form, design, height, bulk, scale, roofline, materials, colour schemes, external surface finishes, fencing and landscape treatment;	Refer to Section 3.0 and the Annexures of this document and the Architectural Plans that are submitted as part of the Development Application.
3. A description of the measures proposed to ameliorate visual impacts;	The Architectural designs for the proposed development prepared by HGA were carefully formulated over many months taking into consideration the position of the property, the

	<p>topography of the land (with a northern aspect), neighbouring properties and the public domain.</p> <p>These considerations directed the layout of the development within the site, orientating the open space areas and windows to the north view a view towards Wategos Beach, rather than to the east with views over the nearest neighbouring residence.</p> <p>Detailed consideration of materials and colours has been completed to model the final design.</p> <p>The Development Application is supported by an Environmental Impact Statement and documentation completed by specialist consultants.</p> <p>A Landscape Plan prepared by HGA details landscaping elements across the residential property. This documentation is included within the Annexures of the Environmental Impact Statement.</p> <p>The Landscape Plan includes details of new plantings, permeable and impermeable surfaces across the site.</p> <p>A mix of trees and shrubs are proposed within the property. Selected species are proposed to ensure bush fire protection is maintained.</p> <p>The Architectural Plans provide compatible materials for the site with natural timber dominant on the northern elevation.</p> <p>The Architectural design sinks components of the development into the sloping site to reduce the overall height, bulk and scale. All excavations will be backfilled and provided with landscape treatment to ensure the completed development will not present unsightly exposed surfaces.</p>
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	<p>The design includes a low pitch roof form that minimises impacts on neighbouring residential land. These combined design features ameliorate the visual impacts of the proposed development within the residential property.</p>
<p>4. Provision of graphic evidence to illustrate the proposal, including models and/or photomontages where relevant;</p>	<p>As provided within this report.</p>
<p>5. Description of the visual prominence of the site and visual impact of the development, including responses to the following questions: a) can the site be viewed from public locations, including public reserves, waterways, beaches and roads?</p>	<p>The topography and location of the development site is such that visibility from public locations (including reserves, waterways, beaches and roads) is inevitable. However, existing vegetation within the road reserve and enhanced landscape plantings within the site reduce visibility. The property rises above Marine Parade. Its northern orientation provides a filtered outlook over Wategos Beach. The Annexures of this report Planning Report provide details of the site and its setting.</p>
<p>b) is the site located on a high topographical location such as a hillside, ridgeline, knoll or crest?</p>	<p>Although positioned on a sloping site that rises above Marine Parade, the property is amongst the lowest in elevation of the roughly 82 residential properties within the Wategos Beach locality. The images attached to this document show that neighbouring residential properties and the Cape Byron State Conservation Area sit well above the development site. The topography creates a backdrop to the development when viewed from public locations (including reserves, waterways, beaches and roads).</p>
<p>c) can the site be viewed from the beach front?</p>	<p>As discussed above, the site is visible from Wategos Beach due to its position and topography. However, existing coastal vegetation (dominated by Pandanus Palms and Casuarina Trees) lines the beachfront on the northern side of a public walkway within the Marine</p>

	Parade road reserve. Vegetation is also located within the road reserve on the southern side of the road. This vegetation provides for a filtered view of the development site from the beach.
d) is the site located on land that slopes at a grade of more than 20%?	The Survey Plans provided with the Development Application confirm that parts of the site contain steep slopes. However, the Architectural design incorporates strategic earthworks to set the building into the slope to provide a suitable form of residential development.
e) would proposed development on the site visually disrupt the skyline when viewed from a public location by protruding above any ridgeline, or above adjacent buildings?	The topography of the locality is such that the proposed development will not disrupt the skyline when viewed from public spaces. This is due to the backdrop of established homes and the ridgelines forming the Cape Byron State Conservation Area that surround the Wategos Beach residential precinct.
f) would proposed development on the site have the potential to obstruct views to and/ or from another visually prominent location?	After an inspection of the site it is clear that the dominant direction of view from the subject property and immediately surrounding neighbours is to the north over Wategos Beach. The proposed development has been designed in consideration of the neighbours view lines and recognises the view sharing principles set down by the NSW Land & Environment Court.
g) would the development on the site have the potential to result in a loss of significant views from another property?	Refer to Section 5.0 of this document.
h) would development on the site become visually prominent due to the removal of vegetation that would otherwise screen the development?	The provision of plantings as detailed within the Landscape Plan will ensure that the development will not cause significant adverse visual impacts.
i) how will the development be visually integrated with the surrounding natural landscape and built environment?	The Architectural plans prepared by HGA illustrate the completed development set into the sloping site. The proposal integrates well

	<p>with the streetscape, providing a similar height, bulk and scale of development to the adjoining and adjacent residential structures.</p> <p>The attached Photographs of Existing Development within the Wategos Locality demonstrates the comparable scale of established and new constructions within the immediate neighbourhood. The proposed development is consistent with the form of modern designs in Marine Parade, Brownell Drive and Pandanus Place.</p>
<p>j) how will the development incorporate measures to avoid reflection of sunlight from glazed surfaces?</p>	<p>The Architectural plans include a landscape design. These detail the external finishes of the proposed development using earth toned construction materials, roof overhangs and landscape plantings to minimise reflection from glazing.</p>

5.0 View Sharing Principles

The Prescriptive Measures within Part C3.2.2 of Byron Development Control Plan 2014 provide that, where any proposed development has potential to impact upon views from another property to a significant vista, landscape or to one or more visually prominent sites and locations, the following considerations apply:

1. *An assessment of the value of the view that may be affected.*

Regard should be given to past NSW Land and Environment Court Planning Principles including: Water views are valued more highly than land views; Iconic views (e.g. of the Cape Byron Lighthouse) are valued more highly than views without icons; Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment: The subject property (23 Marine Parade) and the adjoining property (21 Marine Parade) enjoy views to the north over Marine Parade and Wategos Beach. The views extend to Julian Rocks and the coastline forming the north of the Byron Shire into the Tweed Shire. The proposed development has been designed so that it does not compromise the views over the northern property boundaries of the adjoining lot.

The properties to the rear of the development site (20 & 22 Brownell Drive) are elevated above Pandanus Place. These neighbouring lots contain multi level homes that rise above the development site.

2. *Consider from what part of the property the views are obtained.*

For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment: The drone photograph provided earlier in this document confirms the view lines from the established homes within Marine Parade are to the north, not over side boundaries. It is the upper levels of the neighbouring dwelling that contain primary living spaces. The lower levels include less used spaces, including a garage facing Marine Parade. It is submitted that the design provides for an acceptable level of view impact.

3. *Assessment of the extent of the impact. This should be done for the whole of the property, not just for the view that is affected.*

The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment: The view impacts resulting from the proposed development are considered to be minor. The drone photograph provided earlier in this document shows established coastal vegetation within the front of No. 23 Marine Parade reducing ocean views of the adjacent property over its eastern side boundary. The dwelling at No. 21 Marine Parade will retain extensive northern views over the front boundary of the property.

4. *Assessment of the reasonableness of the proposal that is causing the impact.*

A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of

a complying development would probably be considered acceptable and the view sharing reasonable.

Comment: The proposed development complies with the maximum 9.0m overall building height control set out within Byron Local Environmental Plan 2014. The properties to the south of the development site on the opposite side of Pandanus Place (20 & 22 Brownell Drive) sit significantly higher than the development site. They contain multi level houses which include more than one level where residents can enjoy water views over the top of 23 Marine Parade.

6.0 Conclusion

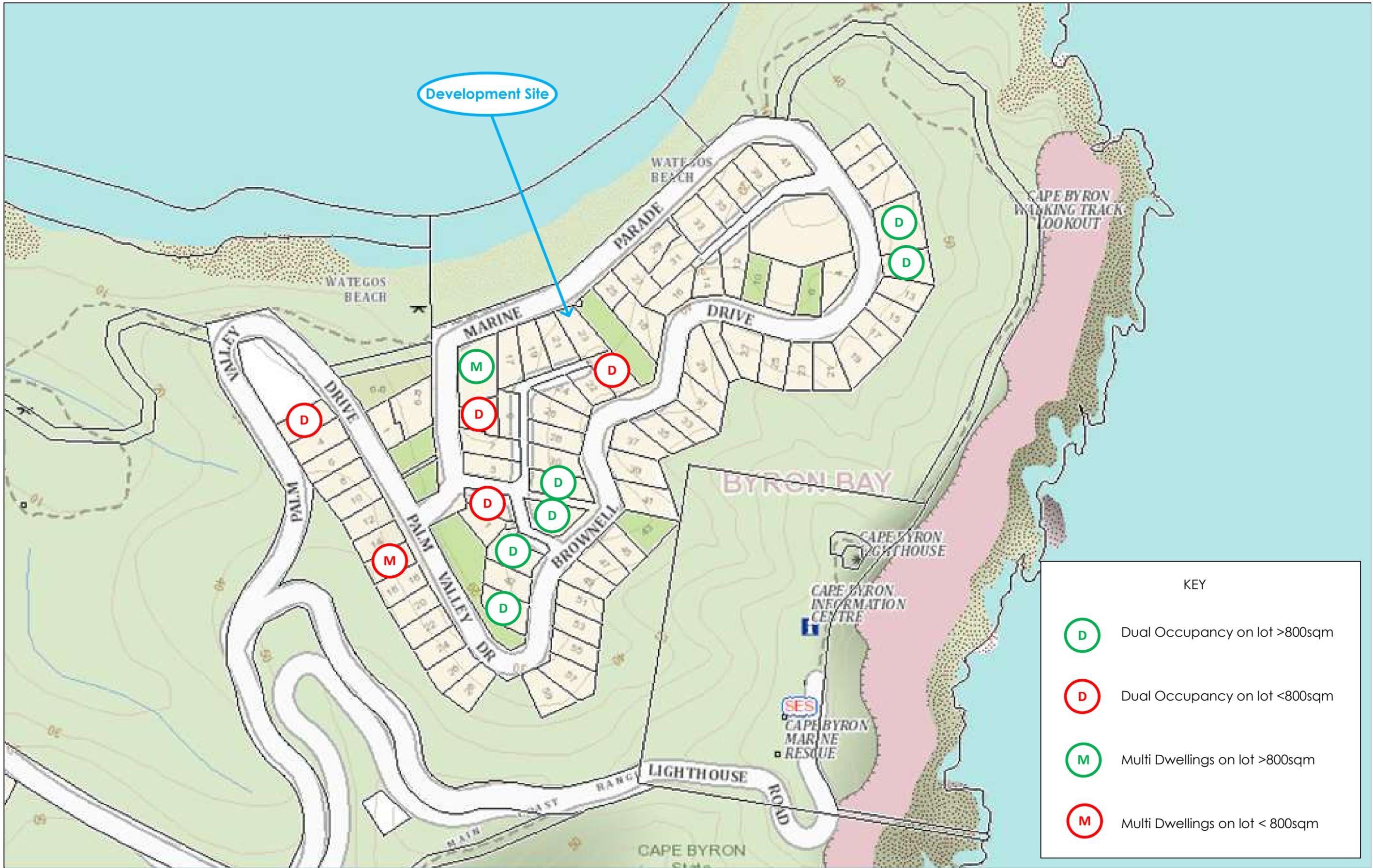
This report addresses the matters for consideration under Chapter C3 of Byron Development Control Plan 2014. It is considered that sufficient information has been provided to assess the proposal as a Development Application in light of the issues identified. However, please advise the Applicant should further information be required to address any issues that may arise during assessment.

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Town Planning Studio

Annexure A

Photographs of Existing Development within the Wategos Beach Locality





19 Marine Parade



17 Marine Parade



11-15 Marine Parade



21 Marine Parade



25 Marine Parade



27 Marine Parade



41 Marine Parade



5-7 Brownell Drive



9 Brownell Drive



13 & 15 Brownell Drive



19 Brownell Drive



21 Brownell Drive



23 Brownell Drive



45, 47 & 49 Brownell Drive



45 Brownell Drive



47 Brownell Drive



49, 51 & 53 Brownell Drive



49, 51 & 53 Brownell Drive



44 Brownell Drive



53 Brownell Drive



44 Brownell Drive



59 Brownell Drive



28 Palm Valley Drive



3 Marine Parade



Intersection of Marine Parade & Palm Valley Drive



16 Palm Valley Drive



14 Palm Valley Drive



10 & 12 Palm Valley Drive



12 Palm Valley Drive



26 & 28 Brownell Drive



2 Pandanus Place



2 Pandanus Place



3 Marine Parade



5 Marine Parade



26 Brownell Drive



24 Brownell Drive



20 Brownell Drive



Pandanus Lane



4 Palm Valley Drive



26 Brownell Drive



11-15 Marine Parade



6-8 Marine Parade



6-8 Marine Parade



21 Marine Parade



19 Marine Parade

Annexure B

Photographs of the Development Site from Marine Parade and Wategos Beach



Images from Marine Parade

(the proposed development is located to the rear of the established pandanus trees)



Images from Wategos Beach

(the proposed development is screened by established vegetation within the Marine Parade road reserve)

Annexure C

Renders of the Proposed Development



Render of the proposed dwelling with vegetation providing partial screening from Marine Parade



Renders of the proposed dwelling from within the site