

DEVELOPMENT APPLICATION EVALUATION REPORT

Doc No. #A2021/10423

DA No:	10.2021.151.1				
NSW PP	PAN-82310				
Proposal description:	Use of Structure as Dwelling to create Dual Occupancy (Detached) and Use of Alterations and Additions to Dual Occupancy Dwelling				
Property description:	LOT: 2 DP: 628447				
	683 Myocum Road MYOCUM				
Parcel No/s:	56350				
Applicant:	Byron Bay Planning & Property Consultants				
Owner:	Mr E Ahern				
Zoning:	RU1 Primary Production / PART 1(b1) Agricultural Protection / PART 7(d) Scenic/Escarpment				
Date received:	26 March 2021				
Integrated / Designated Development:	<input type="checkbox"/> Integrated	<input type="checkbox"/> Designated	<input checked="" type="checkbox"/> Not applicable		
Concurrence required	No				
Public notification or exhibition:	<ul style="list-style-type: none"> - Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications - Exhibition period: 2/4/21 to 18/4/21 - Submissions received: Nil (0) - Submissions acknowledged: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A 				
Other approvals	<input type="checkbox"/> N/R	<input type="checkbox"/> W & S (68)	<input type="checkbox"/> OSMS (68)	<input type="checkbox"/> ST (68)	<input type="checkbox"/> RA (138)
	Other:				
Planning Review Committee:	Not applicable				
Variation request	Not applicable				
Delegation to determine	Manager, Sustainable Development				

Issues:	<ul style="list-style-type: none"> • Unauthorised alterations and additions to existing, approved dwelling and unauthorised construction of a 'new' dwelling. • 'As-built' alterations and additions not consistent with plans. • Inadequate information to demonstrate new dwelling driveway is wholly within the property boundary. • Encroachment of 'new' dwelling and associated asset protection zone into required setbacks to ecological significant areas ('red flags').
Summary:	<p>The DA proposes Use of Structure as Dwelling to create Dual Occupancy (Detached) and Use of Alterations and Additions to Dual Occupancy Dwelling.</p> <p>The Structure to be used as a dwelling to create Dual Occupancy (Detached) is 85m to the west of the existing/approved dwelling, single story with a skillion roof, ~400m² in floor area, comprises three bedrooms, two bathrooms, a carport and several covered outdoor living areas and has been completely constructed without Council approval.</p> <p>The Alterations and Additions to the existing/approved dwelling for which approval is sought comprise three covered verandahs, two with outdoor baths and one with a bathroom. A store (bedroom) and bathroom have been added to the modified laundry/carport.</p> <p>The issues identified above have been addressed by recommended conditions.</p> <p>The application appropriately addresses the relevant constraints applying to the site and is recommended for approval subject to the conditions listed in the Recommendation of this Report below.</p>
Recommendation:	<p>1. Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.151.1 for Use of Structure as Dwelling to create Dual Occupancy (Detached) and Use of Alterations and Additions to Dual Occupancy Dwelling, be granted Deferred Commencement (deferral period 12 months).</p> <p>2. Refer the unauthorised building work (alterations and additions to existing dwelling and construction of 'new' dwelling) to Council's Compliance Team for consideration.</p>
Determination	<p>Agree with recommendation: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Check for comments at the end of the report: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Further information required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
BCA Classification required?	<p><input checked="" type="checkbox"/> Yes - BCA Classification – 1(a)</p> <p><input type="checkbox"/> No</p>
Roads Act Approval granted	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p>

1. INTRODUCTION

History/Background

Council's records indicate the following development approval history for the property:

- 10.2007.658.1 – alterations & additions to single storey dwelling – approved 4/12/2007
- 10.2007.658.2 – modify consent to make alterations to the roof over the deck and carport, include a covered walkway from the carport, delete the store room and relocate the laundry and make internal alterations to the dwelling – approved 27/11/2012
- 10.2013.188.1 – alterations and additions to an existing dwelling-house – approved 30/7/2013

Council requested further information on 26 March 2021 being provision of a landscape plan and a concept stormwater plan (A2021/10422). This information was provided to Council on 13 April 2021 (E2021/56748).

On 19 October 2021, Council requested a preliminary site contamination investigation via the Planning Portal (Case ID AI-271374). In the absence of a response to this request, Council sent a reminder letter on 13/1/2022 (A2022/1181). A copy of the preliminary site contamination investigation for this application was provided to Council on 23/2/22 (the applicant showed that this report was provided to Council on 2/12/21 but was not sent to the planning officer or filed).

Note: The assessment report for 10.2007.658.1 noted that "*Council's records Department are unable to trace any previous approvals for the existing dwelling on the site, which is an old traditional weatherboard cottage.*"

Description of the proposed development

This application seeks approval for Use of Structure as Dwelling to create Dual Occupancy (Detached) and Use of Alterations and Additions to Dual Occupancy Dwelling.

The Alterations and Additions made to the existing/approved dwelling for which approval is sought are:

- Covered verandah with bathroom and outside bath on the northern side of the dwelling.
- Altered deck layout on the western side of the dwelling.
- Covered verandah with outside bath on the southern side of the dwelling.
- Altered bathroom layout and storage area on the southern side of the dwelling.
- Altered laundry layout in the car port and addition of a storage room on the southern side of the carport.
- Changes to doors and windows associated with the above alterations.

The Structure for which approval for use as a Dwelling to create Dual Occupancy (Detached) is:

- Located approximately 85m to the west of the existing/approved dwelling.
- Single story with skillion roof, ~400m² in floor area with three bedrooms, two bathrooms, a carport and several covered outdoor living areas.

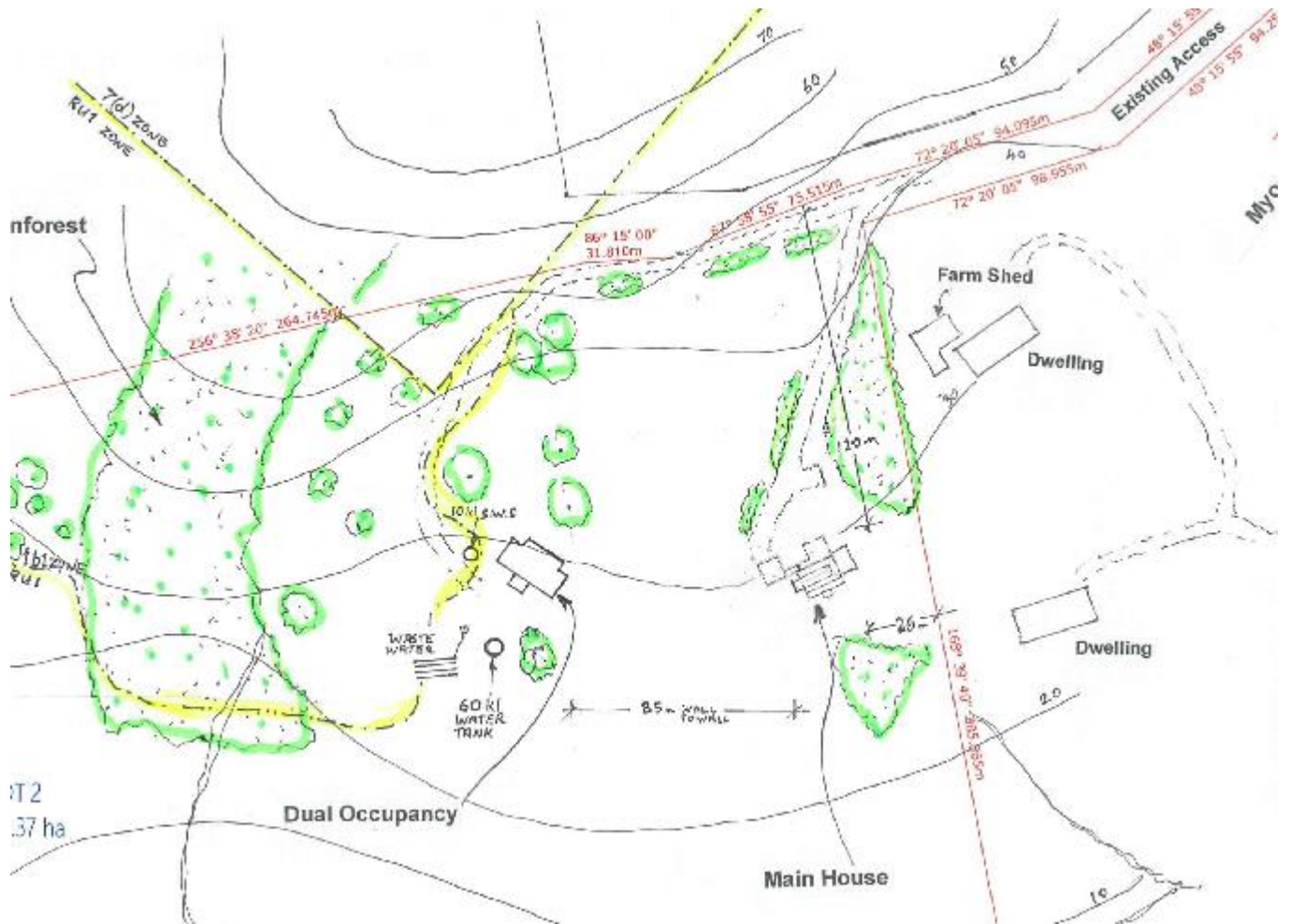


Figure 1. Site plan.

Description of the site

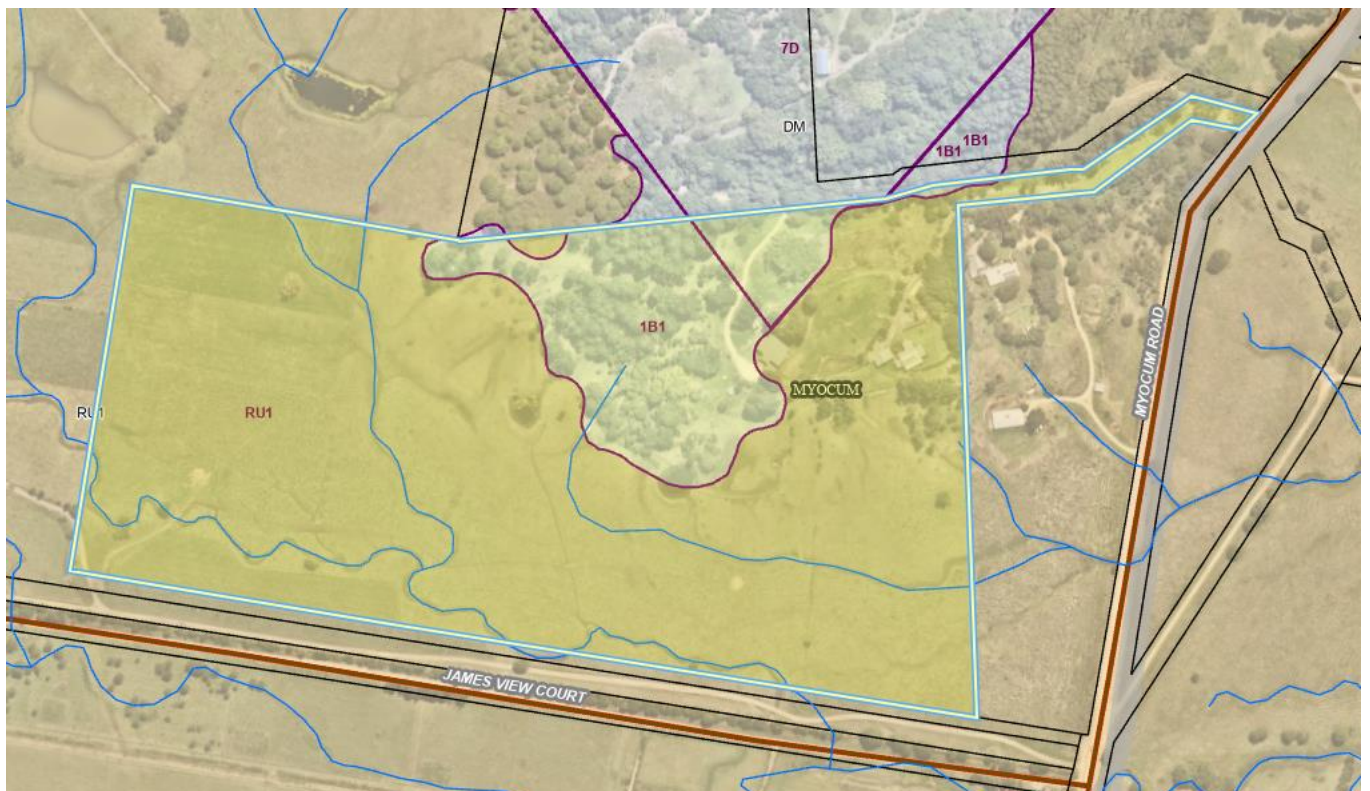


Figure 2. Aerial photo and land zoning overlay. Subject property identified by yellow polygon.

Land is legally described	LOT: 2 DP: 628447	
Property address	683 Myocum Road MYOCUM	
Land is zoned:	RU1 Primary Production / PART 1(b1) Agricultural Protection / PART 7(d) Scenic/Escarpment	
Land area is:	22.37 ha	
Property is constrained by:	<ul style="list-style-type: none"> • Flood Liable Land • Bushfire prone land • High Environmental Value vegetation • Koala habitat 	
	Is a BDAR required due to the location of the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Are there any easements in favour of Council affecting the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Vegetation Management Plan which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

A site inspection was carried out on 21 March 2022

Existing dwelling alteration/additions



Photo 1 – ‘Existing’ dwelling viewed from driveway access



Photo 2 – ‘Verandah’ addition on east side of dwelling



Photo 3 – ‘Outdoor living’ addition on north side / entry of dwelling



Photo 4 – ‘Verandah’ addition on west side of dwelling



Photo 5 – Carport and laundry additions on northwest of dwelling (see Note)



Photo 6 – ‘Store’ and laundry additions on northwest of dwelling (see Note)

Note: The ‘as-built’ alterations and additions to the existing dwelling differed from those shown on the plans particularly in relation to the carport and associated rooms. A condition has been recommended requiring these rooms made consistent with the plans.

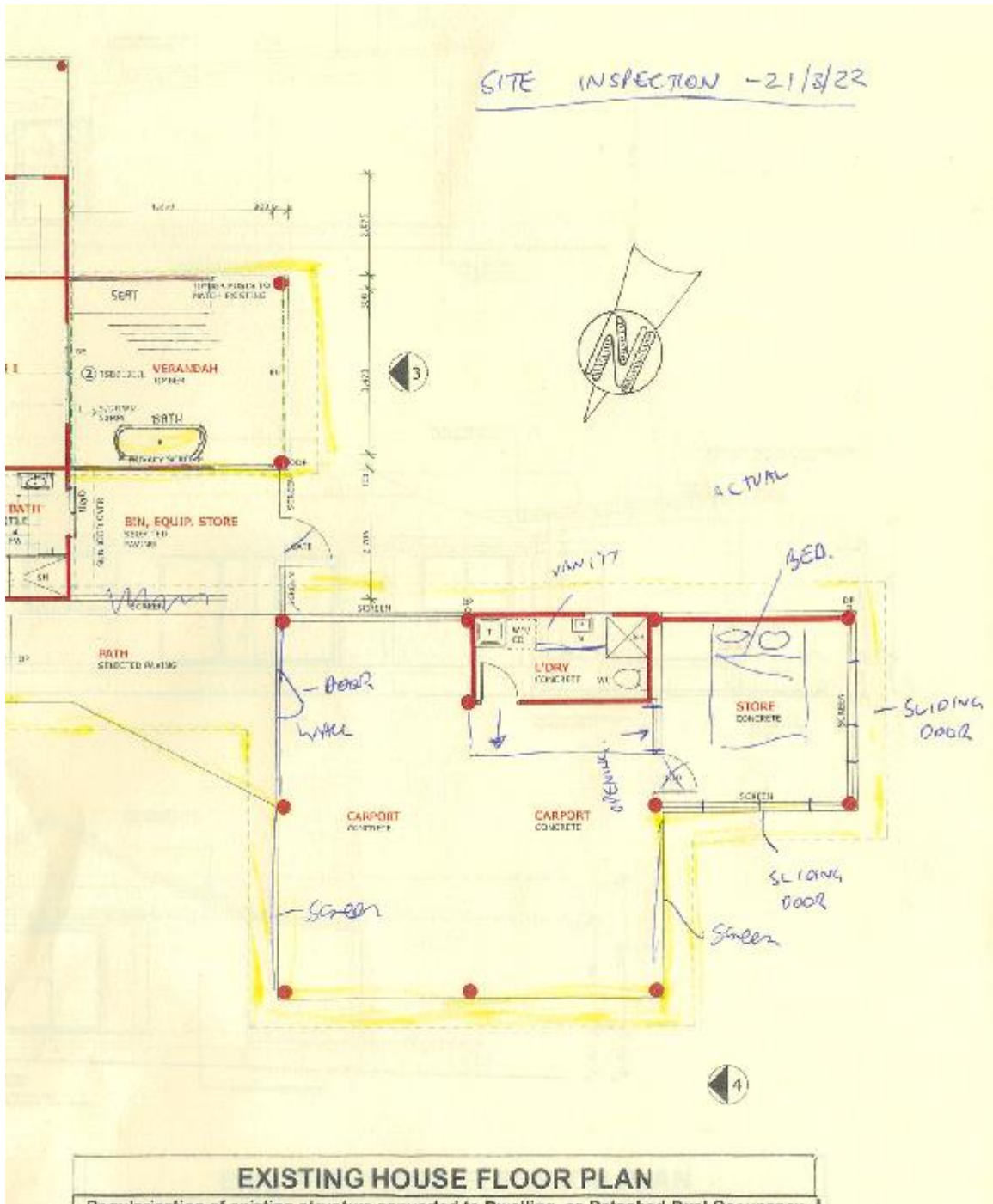


Figure 3. Site plan showing inconsistencies noted during site inspection.

New dwelling



Photo 1 – ‘New’ dwelling viewed from northwest near driveway access



Photo 2 – mature trees at northeast corner of dwelling (to be retained by recommended conditions)



Photo 3 – mature trees at southeast corner of dwelling/carport (to be retained by recommended conditions)



Photo 4 – verandah along eastern wall of dwelling. Vanity next to bath not shown on plans (see Note)



Photo 5 – outdoor living area along northern walls of dwelling. Retaining wall in background (see Note)



Photo 6 – Deck adjacent to carport and located on the southern façade of dwelling

Note: The 'as-built' dwelling has numerous screens that are not shown on the plans in addition to a vanity on the eastern verandah and a retaining wall to the north and west of the dwelling. A condition has been recommended requiring the vanity on the eastern deck to be removed. A condition has been recommended requiring engineering certification of the retaining wall.

2. SUMMARY OF REFERRALS

Referral	Issue
Environmental Health Officer	No objections subject to conditions. Refer to Doc #A2021/10432.
Development Engineer	No objections subject to conditions. Refer to Doc #A2021/10433.
Building Surveyor	No objections subject to deferred commencement conditions. Refer to Doc #A2021/10435.
S94 / Contributions Officer	No objections subject to conditions. Refer to Doc #A2021/10438.

3. SECTION 4.14 – BUSH FIRE PRONE LAND

Using the procedure provided on the NSW Rural Fire Service webpage titled 'Site Assessment Methodology', the asset protection zone and bush fire attack levels for this proposed development (which is in fire weather area FDI 80) are as follows:

- 1) 'existing' dwelling – ~120m from the nearest mapped bushfire hazard (to the west). No further bushfire assessment required.
- 2) 'new' dwelling – assessment in table below:

Direction	West & north
Vegetation formation	Subtropical rainforest
Distance between vegetation formation and building	28m (west) 69m (southwest) 93m (north) 140m (northwest)
Effective slope	West: 5-10% downslope, southwest: 15-20% downslope, north: Upslope, northwest: upslope
Asset Protection Zone	West: 15m, southwest: 25m, north: 9m, northwest: 9m
Bushfire Attack Level (BAL)	BAL– 12.5 to all facades.

Standard conditions for management of bushfire risk in accordance with the above assessment have been included in the Recommendation of this Report.

Effect of 10/50 rule on significant vegetation - The subject parcel of land is in a designated 10/50 vegetation entitlement clearing area (online tool accessed 16/3/22). A condition has been recommended to prevent reliance on the 10/50 rule to clear vegetation adjacent to the 'new' dwelling due to its proximity to high environmental value vegetation.

Based on observations at the site visit, the existing mature vegetation adjacent to the 'new' dwelling can be retained without compromising compliance with bushfire management landscaping requirements (see photo 2 and 3).

4. SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard to the matters for consideration detailed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 (EP&A Act), the following is a summary of the evaluation of the issues.

State Environmental Planning Instruments (SEPP)

Considerations	Satisfactory	Unsatisfactory
<p><i>SEPP No 55—Remediation of Land</i></p> <p>Consideration: A preliminary site contamination assessment for the 'new' dwelling was provided. Based on this report, site contamination is considered acceptable for the proposed development subject to conditions recommended by Council's Environmental Health Officer (c.7).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><i>SEPP (Building Sustainability Index: BASIX) 2004</i></p> <p>Consideration: A BASIX Certificate was provided with the application for the 'new' dwelling. A BASIX Certificate was not provided for the alterations and additions to the 'existing' principal dwelling.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><i>SEPP (Infrastructure) 2007</i></p> <p>Consideration: The 'new' dwelling is within 2m of mapped underground powerlines however both the powerlines and dwelling have been constructed and as such there is no proposed work requiring referral to Essential Energy (c.45).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><i>SEPP (Koala Habitat Protection) 2020</i></p> <p>Consideration: The property is greater than 1ha and has mapped potential koala habitat along parts of the access 'handle' to the east. The vegetation is not identified as core koala habitat (nearest recorded koala sightings are over 100m from the property, the most recent of which was in 2006). No development is proposed in the mapped area. The driveway which runs through this area does not require upgrade works which could result in impacts on koala habitat.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.2A Byron Local Environmental Plan 2014 (LEP 2014)

LEP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP&A Act because it applies to the subject land and the proposed development. The LEP 2014 clauses that are checked below are of relevance to the proposed development:

Part 1	<input checked="" type="checkbox"/> 1.1 <input checked="" type="checkbox"/> 1.1AA <input checked="" type="checkbox"/> 1.2 <input checked="" type="checkbox"/> 1.3 <input checked="" type="checkbox"/> 1.4 <input checked="" type="checkbox"/> Dictionary <input checked="" type="checkbox"/> 1.5 <input checked="" type="checkbox"/> 1.6 <input checked="" type="checkbox"/> 1.7 <input checked="" type="checkbox"/> 1.8 <input type="checkbox"/> 1.8A <input checked="" type="checkbox"/> 1.9 <input type="checkbox"/> 1.9A
Part 2	<input checked="" type="checkbox"/> 2.1 <input checked="" type="checkbox"/> 2.2 <input checked="" type="checkbox"/> 2.3 <input checked="" type="checkbox"/> Land Use Table <input type="checkbox"/> 2.4 <input type="checkbox"/> 2.5 <input type="checkbox"/> 2.6 <input type="checkbox"/> 2.7 <input type="checkbox"/> 2.8
Part 3	<input type="checkbox"/> 3.1 <input type="checkbox"/> 3.2 <input type="checkbox"/> 3.3

Part 4	<input type="checkbox"/> 4.1 <input type="checkbox"/> 4.1A <input type="checkbox"/> 4.1AA <input type="checkbox"/> 4.1B <input type="checkbox"/> 4.1C <input type="checkbox"/> 4.1D <input checked="" type="checkbox"/> 4.1E <input type="checkbox"/> 4.1F <input type="checkbox"/> 4.2 <input checked="" type="checkbox"/> 4.2A <input type="checkbox"/> 4.2B <input type="checkbox"/> 4.2C <input checked="" type="checkbox"/> 4.2D <input checked="" type="checkbox"/> 4.3 <input type="checkbox"/> 4.4 <input type="checkbox"/> 4.5 <input type="checkbox"/> 4.6
Part 5	<input type="checkbox"/> 5.1 <input type="checkbox"/> 5.2 <input type="checkbox"/> 5.3 <input type="checkbox"/> 5.4 <input type="checkbox"/> 5.6 <input type="checkbox"/> 5.7 <input type="checkbox"/> 5.8 <input type="checkbox"/> 5.10 <input type="checkbox"/> 5.11 <input type="checkbox"/> 5.12 <input type="checkbox"/> 5.13 <input type="checkbox"/> 5.14 <input type="checkbox"/> 5.15 <input checked="" type="checkbox"/> 5.16 <input type="checkbox"/> 5.17 <input type="checkbox"/> 5.18 <input type="checkbox"/> 5.19
Part 6	<input type="checkbox"/> 6.1 <input type="checkbox"/> 6.2 <input checked="" type="checkbox"/> 6.3 <input type="checkbox"/> 6.4 <input type="checkbox"/> 6.5 <input checked="" type="checkbox"/> 6.6 <input type="checkbox"/> 6.7 <input type="checkbox"/> 6.8 <input type="checkbox"/> 6.9 <input type="checkbox"/> 6.10 <input type="checkbox"/> 6.11

In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:

- (a) The proposed development is defined in the LEP 2014 Dictionary as dwelling and dual occupancy (detached);
- (b) The land is within the RU1 Primary Production / PART 1(b1) Agricultural Protection / PART 7(d) Scenic/Escarpment according to the Land Zoning Map. The application states that the subject buildings are wholly within the RU1 Primary Production zone, and a condition has been recommended requiring a survey to confirm this;
- (c) The proposed development is permitted with consent; and
- (d) Regard is had for the Zone Objectives as follows:

Zone Objective	Consideration
<ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To encourage consolidation of lots for the purposes of primary industry production. • To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality. • To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality. 	<p>The proposed development will neither further, nor derogate from, the zone objectives.</p>

The property meets the minimum lot size for a dual occupancy in the zone (cl.4.1E).

Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones

The subject lot is less than the minimum lot size of 40ha, however the lot was created before this plan commenced (mapped as existing holding as at 8/11/1968). Under the previous zoning of 1(b1), a dwelling house was permitted on the property and a dwelling house was approved on the property some time before 2007 (see Background above). As such, development consent may be granted for the dual occupancy under subclause 3(c). Development consent may be granted under subclause 4 as an approved dual occupancy is not currently approved on the land.

Clause 4.2D Erection of dual occupancies (detached) and secondary dwellings in Zones RU1 and RU2

Under subclause (2), development consent must not be granted to development for the purpose of a dual occupancy (detached) on land in Zone RU1 Primary Production unless the consent authority is satisfied of a range of matters listed below:

- (a) *the development will not impair the use of the land for agriculture or rural industries, and*
- (b) *each dwelling will use the same vehicular access to and from a public road, and*
- (c) *any dwellings will be situated within 100 metres of each other, and*
- (d) *the land is physically suitable for the development, and*
- (e) *the land is capable of accommodating the on-site disposal and management of sewage for the development, and*
- (f) *the development will not have an adverse impact on the scenic amenity or character of the rural environment.*

The proposed dual occupancy satisfies these requirements as the dwellings will share vehicular access (see note) and are located within 100m of each other and the land is physically suitable for the development including disposal of wastewater. The proposed development is in a low-density area, with extensive bushland thus minimising any potential visual impacts. No information was provided in relation to impacts of the development on primary production, but the area of land used for the dual occupancy dwelling is minimal compared to the property size.

Note: The site plan shows vehicular access to the ‘new’ / dual occupancy dwelling close to and potentially overlapping the property boundary. A condition has been recommended requiring a survey of the dual occupancy driveway access to demonstrate it is entirely within the property boundaries.

Council’s Environmental Health Officer did not identify any land use conflicts likely to result from approval of the development (cl.5.16).

Neither of the dwellings are located within areas of the property mapped as flood liable land (cl.6.3).

Vehicular access to the property is through the ‘handle’ to Myocum Road. Stormwater, drinking water and wastewater will be managed on-site as no reticulated services are available (cl.6.6).

The remaining underlined clauses have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development complies with all clauses of LEP 2014 (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

Clause 4.6 Exceptions to Development Standards

Not applicable

4.3 Any proposed Instrument that has been the subject of public consultation and has been notified to the consent authority

No proposed instruments were identified that are relevant to this application.

4.4A Byron Shire Development Control Plan 2014 (DCP 2014)

DCP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP& A Act because it applies to the land to which LEP 2014 applies. The DCP 2014 Parts/Chapters that are checked below are of relevance to the proposed development:

Part A	<input checked="" type="checkbox"/>
Part B Chapters:	<input checked="" type="checkbox"/> B1 <input checked="" type="checkbox"/> B3 <input checked="" type="checkbox"/> B4 <input type="checkbox"/> B5 <input type="checkbox"/> B6 <input type="checkbox"/> B7 <input checked="" type="checkbox"/> B8 <input checked="" type="checkbox"/> B9 <input type="checkbox"/> B10 <input type="checkbox"/> B11 <input type="checkbox"/> B12 <input type="checkbox"/> B13 <input type="checkbox"/> B14
Part C Chapters:	<input type="checkbox"/> C1 <input type="checkbox"/> C2 <input type="checkbox"/> C3 <input type="checkbox"/> C4
Part D Chapters	<input type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input type="checkbox"/> D3 <input type="checkbox"/> D4 <input type="checkbox"/> D5 <input type="checkbox"/> D6 <input type="checkbox"/> D7 <input type="checkbox"/> D8 <input type="checkbox"/> D9

B1 – Biodiversity

The SEE does not propose removal of native vegetation and as noted under the bushfire assessment above, a condition has been recommended to prevent reliance on the 10/50 rule to clear vegetation adjacent to the 'new' dwelling due to it being proximate to high environmental value vegetation (subtropical rainforest). However, both dwellings (particularly if required APZ is include for 'new' dwelling) are within the setback (20m) to high environmental value vegetation and the new dwelling is also within the setback (20m) of the wildlife corridor. Based on aerial photos and the site inspection (see photos 2 and 3), the mapped vegetation adjacent to the 'new' dwelling comprises mature, individual trees (a reduced setback of 10m is allowed in this instance). The site plan provided is inaccurate with respect to vegetation mapping and several of the mature trees are within 10m of the 'new' dwelling.

Based on observations at the site visit, the existing mature vegetation adjacent to the 'new' dwelling can be retained (albeit with some pruning of those trees adjacent to the southern corner of the carport) without compromising compliance with bushfire management landscaping requirements. A condition has been recommended in this regard.

B3 – Services

- Water supply – The application states that water supply for the dwellings will be from tank water. (NB - *Rural dwellings without reticulated water are to have a minimum domestic tank capacity of 40,000 litres.*)
- Electricity – both buildings are connected to powerlines.
- Telecommunications – No detail on telecommunications for the proposed development was identified in the application.
- Stormwater – The application states that roof water will be diverted to water tanks with overflow dispersed to trenches in the ground.
- Suitable vehicular access to Myocum Road is available.
- Wastewater – Council's Environmental Health Officer is satisfied that wastewater from the development can be treated and disposed on-site in accordance with relevant requirements, subject to conditions.

B4 – Traffic Planning, Vehicle Parking, Circulation and Access

Council's Development Engineer is satisfied proposed car parking and circulation are adequate.

B9 – Landscaping

The property has existing vegetation near to, and around, the dwellings. A landscape plan was not provided with the application and the SEE states that no additional landscape planting is proposed. A condition has been recommended requiring a landscape plan that: (i) demonstrates retention of suitable existing vegetation; and (ii) proposes screen planting to provide privacy between dwelling houses and around the boundaries of the site (B9.5.1).

D2 Residential Accommodation and Ancillary Development in Rural Zones

D2.2 General Provisions

The dual occupancy dwellings will be set back over 20m from all property boundaries (D2.2.2). The total number of residential buildings proposed for the property is two (D2.2.3).

D2.3 Dwelling Houses

The dwellings have adequate parking and access, subject to recommended conditions (D2.3.1).

D2.5 Dual Occupancies and Secondary Dwellings

The proposed development has adequate parking (D2.5.1), is suitably sited (D2.5.2) and there is ample opportunity to provide the required (30m²) private open space for the dual occupancy (D2.5.4).

These checked Parts/Chapters have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development complies with all sections of these Parts/Chapters (in some cases subject to conditions and/or to the satisfaction of other assessing officers), except in relation to certain prescriptive measures which are considered further (having regard to the DCP 2014 Section A1 Dual Path Assessment) as follows:

What Section and prescriptive measure does the development not comply with?	Does the proposed development comply with the Objectives of this Section? Address.	Does the proposed development comply with the Performance Criteria of this Section? Address.
B1.2.1 Development Envelope Controls Both dwellings (particularly if required APZ is included for 'new' dwelling) are within the setback (20m) to high environmental value vegetation and the new dwelling is also within the setback (20m) of the wildlife corridor.	The proposed development complies with the Objectives of the Section because: As noted above, the 'red flag' vegetation comprises only mature, individual trees which can be retained despite being within the asset protection zone (see recommended conditions)	The proposed development complies with the Performance Criteria of this Section because: As is evident on the vegetation mapping, the trees adjacent to the 'new' dwelling are isolated trees and will be protected via recommended conditions thus meeting a ground for variation to the 'red flag' setbacks

The proposed development is demonstrated to meet the relevant Objectives of DCP 2014.

4.5 Environmental Planning & Assessment Regulation 2000 Considerations

Clause	This control is applicable to the proposal:	I have considered this control as it relates to the proposal:	If this control is applicable, does the proposal comply?
92	No	N/A	N/A
93	No	N/A	N/A
94	No	Yes, referred to building certifier	Expected to be addressed in Building information Certificate
94A	No	N/A	N/A

4.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Impact on:	Likely significant impact/s?
Natural environment	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
Built environment	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
Social Environment	No. The proposal will not have a significant social impact on the locality.

Economic impact	No. The proposal will not have a significant economic impact on the locality.
Construction Impacts	The development will generate minor impacts during its construction. Conditions of consent recommended to control hours of work, builders waste, construction noise, installation of sedimentation and erosion control measures and the like to ameliorate such impacts.

Council Policies that are applicable to the proposed development:

Council Policy	Consideration
Building Certificates Policy	Addressed by Building referral
Management of Contaminated Land Policy	Addressed by Environmental Health Officer referral
Provision of Driveways Policy	Addressed by Development Engineer referral

4.7 The suitability of the site for the development

Site Suitability

4.8 Submissions made in accordance with this Act or the regulations

The development application was publicly exhibited

There were **Nil (0)** submissions made on the development application:

4.9 Public interest

The proposed development is unlikely to prejudice or compromise the public interest or create an undesirable precedent.

5. DEVELOPER CONTRIBUTIONS

5.1 Water & Sewer Levies

No Section 64 levies will be required.

5.2 Developer Contributions

Section 7.11 Contributions will be payable.

6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Disclosure details	Response
Has a Disclosure Statement been received in relation to this application? If Yes, Provide Disclosure Statement register reference: 91.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

7. CONCLUSION

The DA proposes Use of Structure as Dwelling to create Dual Occupancy (Detached) and Use of Alterations and Additions to Dual Occupancy Dwelling.

The Structure to be used as a dwelling to create Dual Occupancy (Detached) is 85m to the west of the existing/approved dwelling, single story with a skillion roof, ~400m² in floor area, comprises three bedrooms, two bathrooms, a carport and several covered outdoor living areas and has been completely constructed without Council approval.

The Alterations and Additions to the existing/approved dwelling for which approval is sought comprise three covered verandahs, two with outdoor baths and one with a bathroom. A store (bedroom) and bathroom have been added to the modified laundry/carport.

The issues identified above have been addressed by recommended conditions.

The proposed development is satisfactory having regard to the relevant environmental planning instruments and planning controls applicable to the site. The proposal raises no significant issues in terms of environmental impacts which cannot be managed, and the site is considered suitable for the development. The application appropriately addresses the relevant constraints applying to the site and is recommended for approval subject to the conditions listed in the Recommendation of this Report below.

8. RECOMMENDATION

1. It is recommended that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.151.1 for Use of Structure as Dwelling to create Dual Occupancy (Detached) and Use of Alterations and Additions to Dual Occupancy Dwelling, be granted Deferred Commencement (deferral period 12 months).

2. Refer the unauthorised building work (alterations and additions to existing dwelling and construction of 'new' dwelling) to Council's Compliance Team for consideration.

9. CONDITIONS OF CONSENT

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

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

1. Deferred Commencement Consent

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

A. Survey of driveway access Site Location Survey

A survey of the driveway to the 'new'/western dwelling is to be submitted to Council demonstrating that the entire driveway from the 'Y' junction at the northeast corner of the property to the parking area for the dwelling, including any upgrades required for bush fire safety, is within the property.

B. Survey of dwelling locations

A survey of the location of both dwellings that includes the land zoning boundaries and demonstrates that both dwellings are wholly within land zoned RU1 under the Byron Local Environment Plan 2014, is to be submitted to Council.

C. Survey of mature trees adjacent to 'new' / western dwelling

A survey of all established trees within 25m of the 'new'/western dwelling, which includes annotation of the species of all identified trees, is to be submitted to Council.

D. Building works to be consistent with approved plans

Prior to application for Building Information Certificate, the 'existing'/eastern dwelling must be made consistent with the approved plans in condition 1. This includes, but it is not limited to, the access/door from the 'Store' to the 'Laundry' must be removed and the walls and sliding doors on the north and west walls of the 'Store' must be removed and replaced with privacy screens.

E. Building Information Certificate

A Building Information Certificate is required to be issued by Council for the alterations and additions to the existing dwelling and for the entire 'new' dual occupancy dwelling. Prior to issue of the Building Information Certificate the applicant is to demonstrate to Council's satisfaction, with evidence in the form of detailed report/s from suitably qualified and experienced professionals, that:

- a) There is a separate approval from Council for acknowledgement of the installation and/or upgrade of the wastewater system installed on the property;
- b) A land survey from a registered surveyor has been carried out and is provided with the Building Information Certificate application identifying all structures located upon the subject property;
- c) The constructed works satisfies the below listed Performance Provisions of the Building Code of Australia; and
- d) Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate.

Performance Requirement of the Building Code of Australia

P2.1.1 Structural stability and resistance to actions (including glazing)

P2.2.1 Rainwater management

P2.2.2 Weatherproofing

P2.2.3 Rising damp

P2.3.1 Spread of fire

P2.3.2 Automatic warning for occupants

P2.4.1 Wet areas

P2.4.2 Room heights

P2.4.3 Personal hygiene and other facilities

P2.4.4 Lighting

P2.4.5 Ventilation

P2.4.7 Condensation and water vapour management

P2.5.1 Movement to and within a building

F. Developer contributions to be paid

Contributions set out in the schedule below are to be paid to Council. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at www.byron.nsw.gov.au or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended). The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

Evidence is required to be submitted of compliance with the above condition, sufficient to satisfy the Council as to those matters, within 12 months of the date of this Notice of Determination. If satisfactory evidence is produced in accordance with this requirement, the Council will give written notice to the applicant of the date from which this consent commences operation.

If Council has not notified the applicant within a period of 28 days after the applicant's evidence is produced to it, the Council is, for the purposes only of Section 97 of the

Environmental Planning and Assessment Act 1979, taken to have notified the applicant that Council is not satisfied as to those matters on the date on which that 28-day period expires.

SCHEDULE 2. CONDITIONS OF CONSENT

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

Parameters of consent

1. Development is to be in accordance with approved plans

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
P1	Site Plan	C. Lonergan	26/11/2020
P2	Existing House Floor Plan	C. Lonergan	26/11/2020
P3	Existing House Elevation Plan	C. Lonergan	26/11/2020
P4	Existing House Elevation & Section Plan	C. Lonergan	26/11/2020
P5	Dual Occupancy Dwelling Floor Plan	C. Lonergan	26/11/2020
P6	Dual Occupancy Dwelling Elevation Plan	C. Lonergan	26/11/2020
P7	Dual Occupancy Dwelling Elevation & Section Plan	C. Lonergan	26/11/2020
PL	Landscape Plan	C. Lonergan	13/04/2021

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Car Parking to be available for the approved use

Two (2) car parking spaces for each dwelling, together with driveways and turning areas, must be provided and maintained.

3. Conditions prescribed by the Regulation

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

4. Concurrent Approvals

The following approvals are provided under Section 4.12 of *Environmental Planning and Assessment Act*, subject to the conditions contained in **Schedule 4** of this Notice of Determination:

Concurrent Approvals under Section 68 of the *Local Government Act 1993*

Part C - Management of waste

C5 Installing, constructing or altering a waste treatment device or a human waste storage facility or a drain connected to any such device or facility

Refer to *Local Government Act* Section 68 Application No. **70.2021.151.1** issued with this consent or *Local Government Act* Section 68 approval issued subsequent to the date of this

consent.

5. **Bush fire safety measures**

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

The 'new'/dual occupancy dwelling is approved subject to the following conditions:

Asset Protection Zones

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

1. To ensure ongoing protection from the impact of bush fires, the property around the dwelling must be maintained as an Inner Protection Area (IPA) in perpetuity, in accordance with the requirements of appendix 4 of Planning for Bush Fire Protection 2019, as follows:

- West for a minimum distance of 15m from the dwelling;
- Southwest for a minimum distance of 25m from the dwelling; and
- North and Northwest for a minimum distance of 9m from the dwelling.

(a) Subject to the requirement under (b), when establishing and maintaining an IPA the following requirements apply:

- Tree canopy cover should be less than 15% at maturity;
- Trees at maturity should not touch or overhang the building;
- Lower limbs should be removed up to a height of 2m above the ground;
- Tree canopies should be separated by 2 to 5m;
- Preference should be given to smooth barked and evergreen trees;
- Large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings
- Shrubs should not be located under trees;
- Shrubs should not form more than 10% ground cover
- Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- Grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- Leaves and vegetation debris should be removed.

(b) All established native trees within 25m of the 'new'/western dwelling, as identified in the survey required by deferred condition 1C, are to be retained despite the requirements under sub (a) above.

Water and Utilities Services

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

2. The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:
- a. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres fire fighting static water supply (SWS) shall be provided on site.
 - b. An outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure (5-20 metres);

- c. 65mm Storz connection with a ball valve is fitted to the outlet;
- d. The ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material;
- e. Underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank;
- f. A hardened ground surface for truck access is supplied within 4m of the water outlet or access hole;
- g. Above-ground tanks are manufactured from concrete or metal
- h. Raised tanks have their stands constructed from non-combustible material, or bush fire-resisting timber. The bush fire –resisting timbers are; Silvertop ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (merbau) or Turpentine;
- i. Unobstructed access can be provided at all times;
- j. Underground tanks are clearly marked
- k. Tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- l. All exposed water pipes external to the building are metal, including any fixtures.
- m. Where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack;
- n. Any hose and reel for firefighting connected to the pump shall be 19mm internal diameter; and
- o. Fire hose reels are constructed in accordance with AS/NSZ 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005.
- p. A Static Water Supply (SWS) sign shall be obtained from the NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard;
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply
- q. Where practicable, electrical transmission lines are underground;
- r. Where overhead electrical transmission lines are proposed as follows;
 - i. Lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - ii. No part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- s. Reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used.
- t. All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- u. Connections to and from gas cylinders are metal;
- v. Polymer-sheathed flexible gas supply lines are not used; and
- w. Above-ground gas service pipes are metal, including and up to any outlets.

Access – Property Access

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- 3. Property access roads must comply with the property access section of Table 5.3b of Planning for Bush Fire Protection 2019 as follows;
 - a. Property access roads are two-wheel drive, all-weather roads
 - b. The capacity of road surfaces and any bridges/ causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes), bridges and causeways are to clearly indicate load rating;
 - c. There is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available;

- d. Firefighting vehicles can access the dwelling and exit the property safely;
- e. Minimum 4m carriageway width
- f. A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
- g. Property access must provide a suitable turning area in accordance with Appendix 3 of 'Planning for Bush Fire Protection 2019';
- h. Curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
- i. The minimum distance between inner and outer curves is 6m; the crossfall is not more than 10 degrees; and
- j. Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Note: Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development.

Construction Standards

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- 4. Construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' and the relevant requirements of Section 7.5 of Planning for Bush Fire Protection 2019.

5. Landscaping

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

Landscaping within the required inner protection area is to comply with the principles of Appendix 4 of 'Planning for Bush Fire Protection 2019'

The following conditions are to be complied with prior to occupation of the building

- 6. **Works to be completed prior to issue of a Final Occupation Certificate**
All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

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

- 7. **Compliance with BASIX Certificate requirements**
The 'new' dwelling is to comply with Basix Certificate No. 1158223S, dated 26/11/2020.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner

that is consistent with the identification on the Basix Certificate.

Minor changes to the measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

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

8. **Building materials and colours to be specified**

The application for the Occupation Certificate must demonstrate that the building materials and colours are consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours is not permissible

9. **Long Service Levy to be paid**

In accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979* (as amended), any Long Service Levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* must be paid (as applicable).

These payments can be made online at www.longservice.nsw.gov.au. Proof of payment is required to be submitted with the Occupation Certificate application.

For further information regarding the Long Service Payment please refer to the website above.

10. **Rainwater tanks for dwellings**

The application for the Occupation Certificate must demonstrate that each of the dual occupancy dwellings has a dedicated minimum domestic water tank capacity of 40,000 litres, exclusive of any additional water storage required for firefighting purposes required by this development consent.

11. **Site Location Survey**

A final survey of the structures to be submitted to the Private Certifier with the Occupation Certificate that:

- a) Shows and annotates setbacks to boundaries;
- b) The dwellings are separated by a distance of less than 100m; and
- c) Demonstrating compliance with the approved plans.

12. **Inspection for on-site sewage management**

All plumbing and drainage works is to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for a final inspection of the works to be undertaken.

13. **On-site Sewage Management system must be completed**

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

14. **Approval to Operate required**

In accordance with the *Local Government Act*, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

15. **Geotechnical certification of retaining walls required**
A certificate from a suitably qualified, professional Engineer is to be provided to the Principal Certifying Authority, certifying that:
- the design of the rock retaining walls adjacent to the 'new'/western dwelling, has been assessed as structurally adequate,
 - the building and retaining walls will not be affected by landslip or subsidence either above or below the works; and
 - adequate drainage has been provided.
16. **Landscaping required**
Landscaping of the site must be completed in accordance with the approved Landscaping Plan (PL, C. Lonergan, 13/04/2021).
17. **Stormwater disposal**
Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:
- Clear of buildings and infrastructure,
 - Clear of effluent disposal areas,
 - Not concentrated so as to cause soil erosion,
 - Not directly to a watercourse, and
 - Not onto adjoining land.
18. **Compliance with bushfire conditions**
Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.

The following conditions are to be complied with at all times

19. **Use of dwelling houses**
The dwelling houses are not approved to be used as short-term rental accommodation, tourist and visitor accommodation or to be "holiday let".
- Note: *dwelling house* means "a building containing only one dwelling", and dwelling means "a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile".
20. **Use of Store in existing/eastern dwelling**
The 'Store' attached to the carport of the eastern dwelling must not be used as a bedroom. There must be no direct access from the store to the Laundry/bathroom in the Carport.
21. **Retention of native vegetation**
All native vegetation that the 10/50 Vegetation Clearing Code of Practice would otherwise authorise to be removed, destroyed or pruned around the dwellings must be retained for conservation purposes.
- All established native trees within 25m of the 'new'/western dwelling, as identified in the survey required by deferred condition 1C, are to be retained.
- All native trees identified to be retained on the Landscaping Plan are to not be removed.
22. **Landscaping to be maintained**

The landscaping identified in the Landscaping Plan provided with the occupation certificate application must be maintained at all times.

23. Rainwater Supply

All rainwater supply tanks are required to divert water from the first rainfall using a first flush or bypass device. All rainwater tank overflows must be diverted away from on-site sewage management systems.

SCHEDULE 3. PRESCRIBED CONDITIONS

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

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

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

SCHEDULE 4. LOCAL GOVERNMENT ACT 1993 SECTION 68 CONDITIONS OF APPROVAL

NOTE FOR DSO: Please insert E2021/145807 – approval & plans

SCHEDULE 5. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

Statement of Reasons
The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. No submissions were received on the application.
The proposed development is unlikely to prejudice or compromise the public interest.

10. NOTES

Construction Certificate required:

This development consent is issued under the *Environmental Planning and Assessment Act 1979* and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

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

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

Plumbing Standards and requirements.

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

Relics Provisions- Advice

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

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

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

S7.11 Schedule of Development Contributions

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

bank cheque.

Section 7.11 contributions Schedule						
Rural North						
Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		1	@	0.75 SDU	=	0.75
3 bedroom units/dwellings =		1	@	1 SDU	=	1
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	0.75
Schedule valid until		27-April-2022		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-RN)	0.75	SDU @	\$ -	=	\$ -
LGA Wide Open Space & Recreation	(OS-SW)	0.75	SDU @	\$ 793.28	=	\$ 594.96
LGA wide Community Facilities	(CF-SW)	0.75	SDU @	\$ 1,161.84	=	\$ 871.38
Local Community Facilities	(CF-RN)	0.75	SDU @	\$ -	=	\$ -
Bikeways & Footpaths	#NA	0.75	SDU @	\$ -	=	\$ -
Shire Wide Bikeways & Footpaths	(CW-SW)	0.75	SDU @	\$ 85.22	=	\$ 63.92
Urban Roads	#NA	0.75	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	0.75	SDU @	\$ 240.04	=	\$ 180.03
Rural Roads	(R-RN)	0.75	SDU @	\$ 15,663.99	=	\$ 11,747.99
Administration Levy	(OF-SW)	0.75	SDU @	\$ 1,199.90	=	\$ 899.93
Total						\$ 14,358.21

11. ENDORSEMENT

Assessment Officer:	Mr I C Holland
Signature:	
Date:	28/03/2022

This report was reviewed by the Team Leader for Planning Services who made the following comment (see E2022/28272):

This one actually isn't within my delegation. Part of the development lies within the LEP 1988 zones where detached dual occupancy is prohibited. They would really have to make sure and prove that the entire development is not within the 1988 LEP areas to be within my delegations.

In response to this comment, a deferred commencement requirement to survey both dwellings and confirm they are both located within the RU1 zone under BLEP 2014 has been added (see 1.B.)

12. INSTRUMENT OF EXERCISE OF DELEGATED AUTHORITY

The application is determined in accordance with the above recommendation (amendments have been made where necessary) under delegated authority.

Name:	Mr C Larkin
Position:	Manager - Sustainable Development
Signature:	
Determination Date:	28/3/22

Comments by delegated officer:

[Click here](#) add comments on amendments or other.