



BSC File No: 26.2014.8.1 - #E2014/62298
Contact: Emma-Jayne Leckie

24 September 2014

Department of Planning & Environment
Locked Bag 9022
GRAFTON NSW 2460
Attention: Mr Jim Clark



Dear Jim

Planning Proposal to amend Byron LEP 2014 to allow multiple occupancy with consent at 226 Fowlers Lane, Bangalow (Lot 6 DP 261219)

On 20th August 2014, Council received a Planning Proposal from Balanced Systems Planning Consultants seeking to allow a multiple occupancy to be developed on the land with consent under Byron LEP 2014 at 226 Fowlers Lane, Bangalow (Lot 6 DP 261219).

As you are aware, this is one of the sites supported for multiple occupancy by Council in amendments made post-exhibition to Council's Draft LEP but not included in Byron LEP 2014 when it was published on 30 June 2014. Correspondence from the Department signed by the Acting Secretary on 22 May 2014 (your ref. 13/12994) about this site and others not included in Byron LEP 2014 states 'If Council wishes to pursue these issues, Council could prepare planning proposals which would consider community and agency consultation'.

Therefore in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*, Council submits the enclosed planning proposal for a Gateway determination. Given that the proposal is of local planning significance only, Council also requests delegation for the relevant plan making functions in this instance (refer to the enclosed checklist for the criteria for delegating plan making functions).

Although not stated in the planning proposal a public exhibition period of 14 days is considered appropriate in the circumstances as development of the site for multiple occupancy is consistent with surrounding land uses.

Should a positive Gateway Determination be issued it is considered that supplementary information is required to address the following matters:

- Bushfire risk: the land is entirely bushfire prone and contains slopes mapped at greater than 20%
- Contamination risk consistent with the SEPP 55 Contaminated Land Guidelines
- Flora & Fauna (particularly confirming the presence/absence of threatened flora or habitat for threatened fauna)
- Traffic and access

Should you have any enquiries please contact Emma-Jayne Leckie by phone (02) 6626 7169 or email emma-jayne.leckie@byron.nsw.gov.au.

Yours sincerely

Ray Darney
Executive Manager - Environment & Planning

Enc. Planning Proposal E2014/62189
Evaluation Criteria for the Delegation of Plan Making Functions #E2014/62305



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THE BUNDJALUNG PEOPLE

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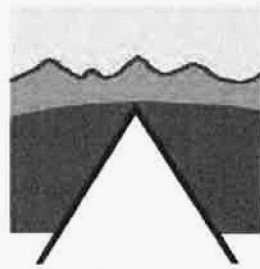
PLANNING PROPOSAL

to
Byron Shire Council
for

Amendment to Byron LEP 2014 Addition to Multiple Occupancy and Community Title Map – Sheet MOC_003

**Lot 6 DP 261219
226 Fowlers Lane Bangalow**

by



Balanced
Systems
Planning
Consultants

**P.O. Box 36 Bangalow 2479
rob@balancedsystems.com.au
0428895301**

August 2014

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- A – Council resolutions supporting the proposal
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SUMMARY

The land, subject to this Planning Proposal, is Lot 6 DP 261219, a 30.28 ha. rural holding at Fowlers Lane north of Bangalow. A summary of the justification for the Planning Proposal, in accordance with the Department of Planning Guidelines for preparing planning proposals, is as follows:

- **Objectives or Intended Outcomes** of the proposed LEP

To enable the rural holding to be utilised for a combination of rural settlement, agricultural uses and ecological enhancement by means multiple occupancy development in a similar manner to properties in the immediate locality.

- **Explanation of the Provisions** that are to be included in the proposed LEP

The provisions to be used in the amendment to the Byron LEP are regularly utilised provisions used for this form of development. These measures are use of Clause 4.2B and the inclusion of the property on the Multiple Occupancy & Community Title Map.

- **Justification** for those objectives, outcomes and provisions and the process for their implementation

Need for the planning proposal – the proposal will result in a net community benefit as it provides infill rural settlement in a suitable location where Council has already permitted rural settlement and allows for the completion of partly provided community infrastructure ie an upgraded local road.

Relationship to strategic planning framework – the proposal assists Council to fulfill its settlement obligations as required by the Far North Coast Regional Strategy. The site is west of the Pacific Highway and provides contemporary rural settlement consistent with the Byron Rural Settlement provisions. The proposal is consistent with all applicable SEPPs. A justifiable inconsistency with the S117 relating to the Farmland Protection policy is provided within this Planning Proposal.

The strategic planning framework for the immediate locality of the site is established to the satisfaction of DP&E & Council as DP&E & Council have recently in the past month included a very similar property (111 Fowlers Lane) in the immediate locality for multiple occupancy development.

Council has consistently supported inclusion of this property as a multiple occupancy property (Council resolutions 10-1002 & 13-388 as detailed within Appendix A)

Environmental, social and economic impact – Positive environmental impacts, in ecological, social and local economic terms, will result from the proposal with no significant adverse impacts occurring.

- **Community Consultation** that is to be undertaken on the planning proposal

Community consultation within the immediate locality has already been undertaken by a Council facilitated consultation process for this locality (refer Appendix B)

Planning Proposal

Fowlers Lane LAMP). Appendix B contains a recent letter from the Fowlers Lane Community Group supporting the proposal and noting that the inclusion of this property for further settlement is in accord with the groups LAMP and is required to finish the planned upgrade of Fowlers Lane.

The Planning Proposal will also be exhibited in accordance with the Department of Planning guidelines 'A Guide to Preparing Planning Proposals'.

1 Introduction

The land, subject to this Planning Proposal, is Lot 6 DP 261219, a 30.28 ha. rural property at 226 Fowlers Lane, approximately 3 km. north of Bangalow, as depicted within Illustration 1.

The Planning Proposal is to allow consent to be sought for a multiple occupancy on the site. When developed it is intended that the land be used for 'rural living' and 'environmental conservation' and 'agricultural' purposes consistent with the Best Practice Guidelines and Performance Standards of the Byron Rural Settlement Strategy (BRSS) 1998.

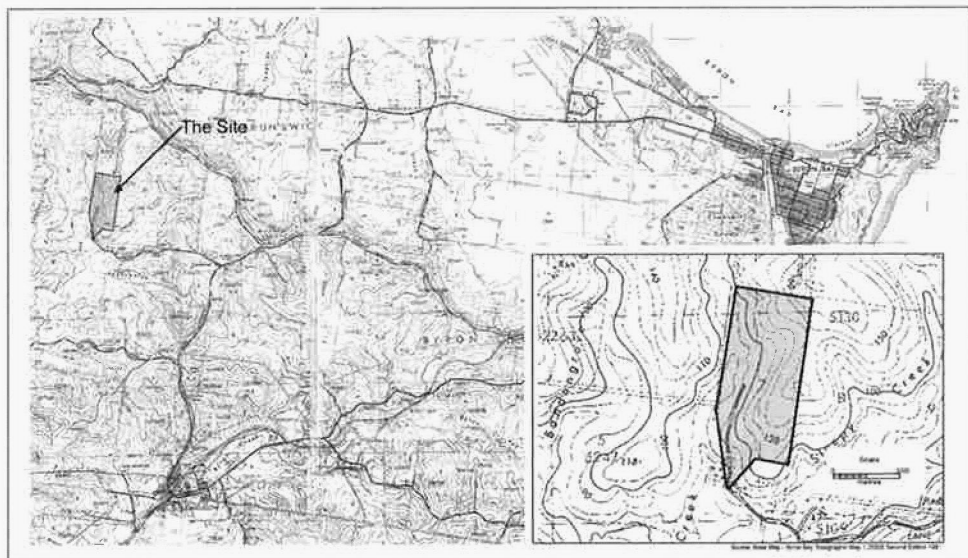


Illustration 1

The Locality

Lot 6 226 DP 261219,
Fowlers Lane Bangalow

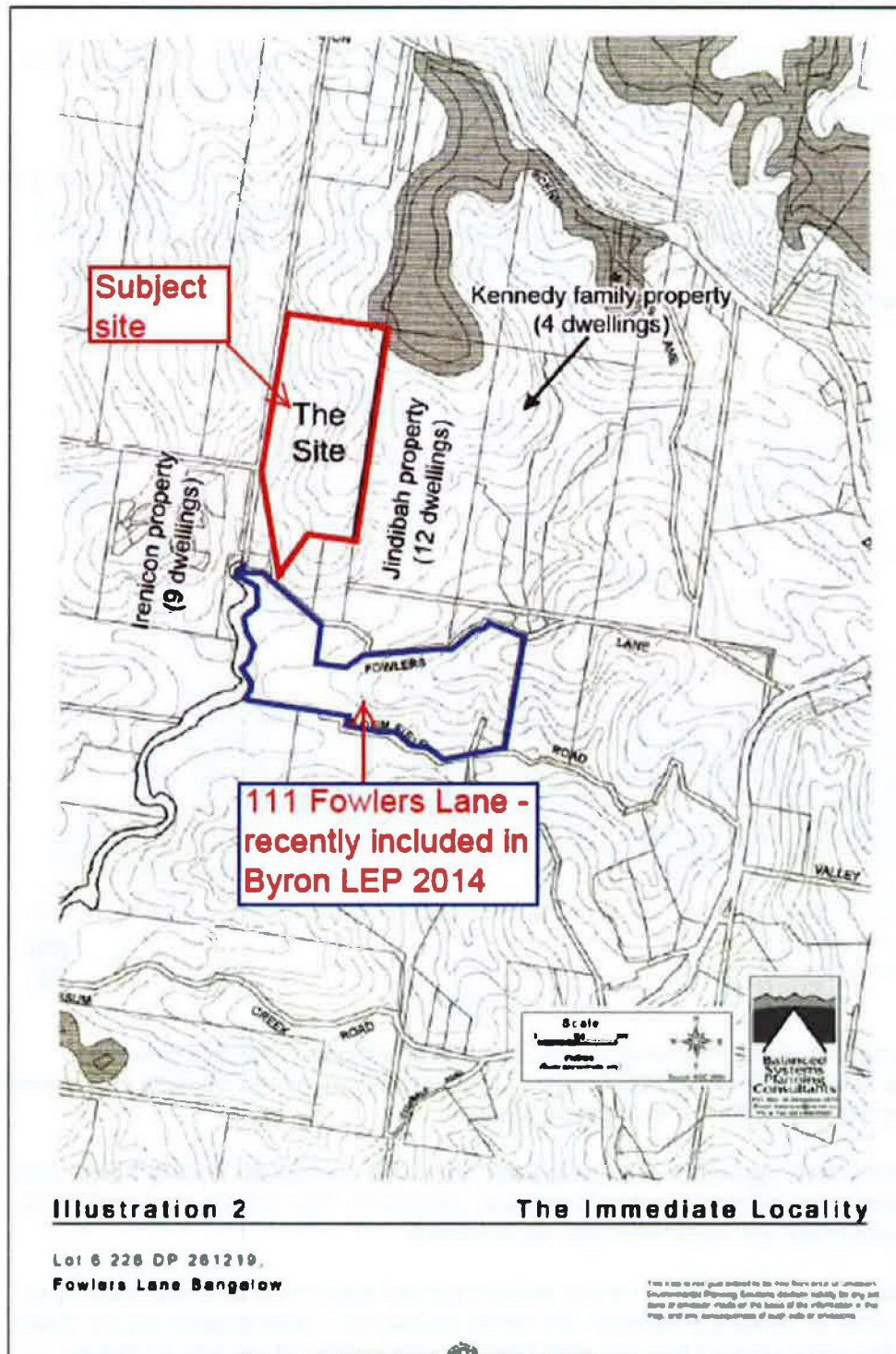


Prepared by: [Logo] rob@balancedsystems.com.au

This proposal seeks to amend Byron Local Environmental Plan 2014, so as to include Lot 6 DP 261219, 226 Fowlers Lane, Bangalow, on the Multiple Occupancy & Community Title Map for 'multiple occupancy'.

In recent years, four other rural properties within the immediate locality have been proposed or developed for additional rural settlement. The subject land and these other properties are depicted within Illustration 2.

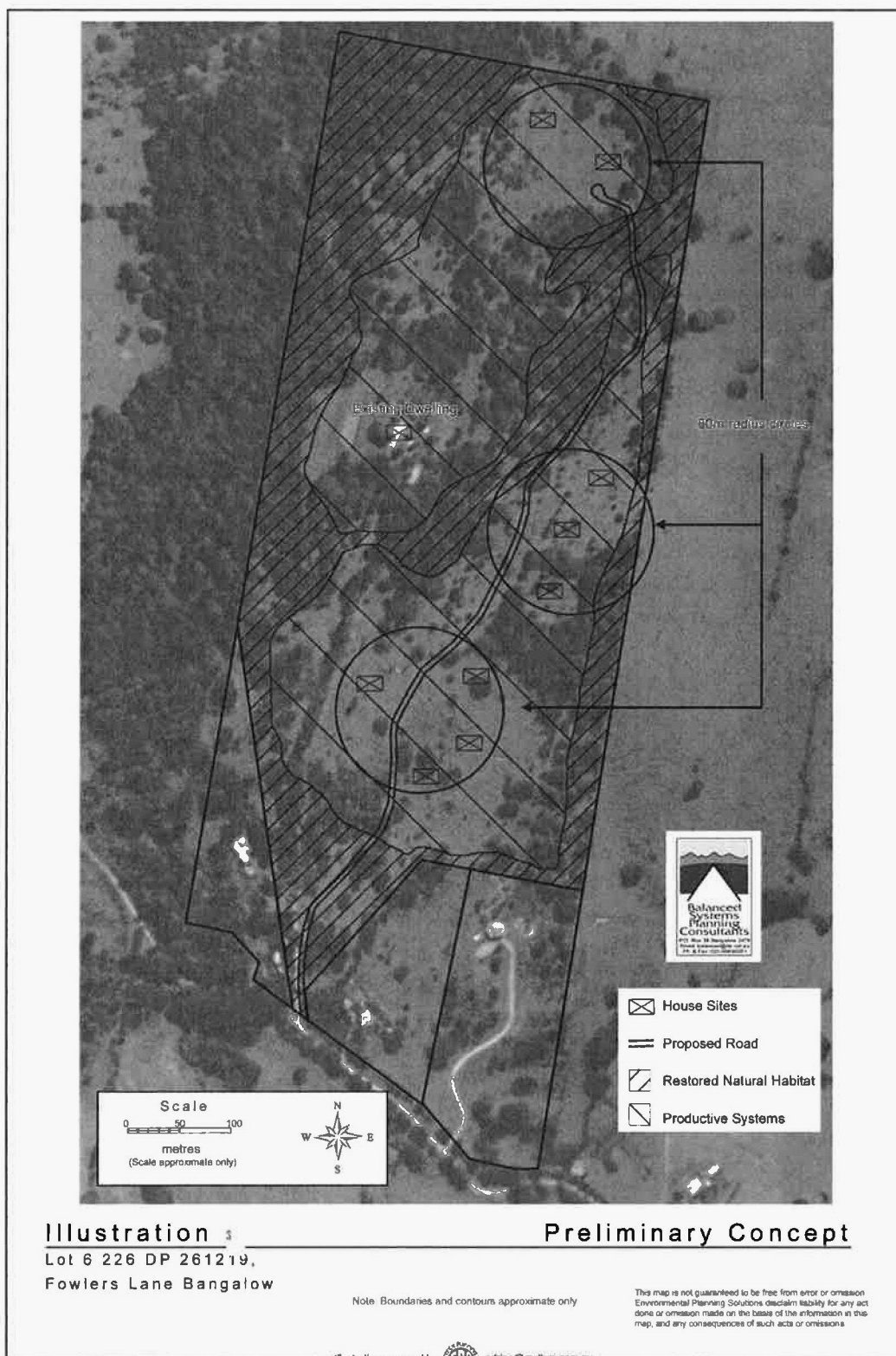
The site has good suitability for the additional rural settlement as evidenced by its large areas of 'developable land', the same landscape characteristics as the other properties approved for this use and a positive inspection of the site by senior Council planning officers.



The outcomes of future development of the site for multiple occupancy are expected to include:

- Road upgrading contributions will be received to assist the final stages of the upgrading of Fowlers Lane
- Rural housing opportunities will be realised in a manner consistent with the BRSS 1998 Best Practice Guidelines and Performance Standards
- Environmental enhancement will be achieved in a manner consistent with the BRSS 1998 Best Practice Guidelines and Performance Standards
- Agricultural opportunities consistent with the intent of the Byron Sustainable Agriculture Strategy will become available
- The implementation of the concept within the proposal will result in positive social and economic impacts in the same manner as evidenced by the implementation of similar concepts on adjoining lands. Such positive impacts include increased housing and lifestyle opportunities, resident involvement in ecological restoration and food production, strengthening social cohesion and revitalisation of local community facilities.
- Potential to apply for consent for rural community title subdivision.

Illustration 3 provides an example of an indicative future development of the site as a multiple occupancy when prepared in accordance with Councils BRSSS Guidelines while the current zoning of the site pursuant to Byron local Environmental Plan 24 is depicted in the graphic following..



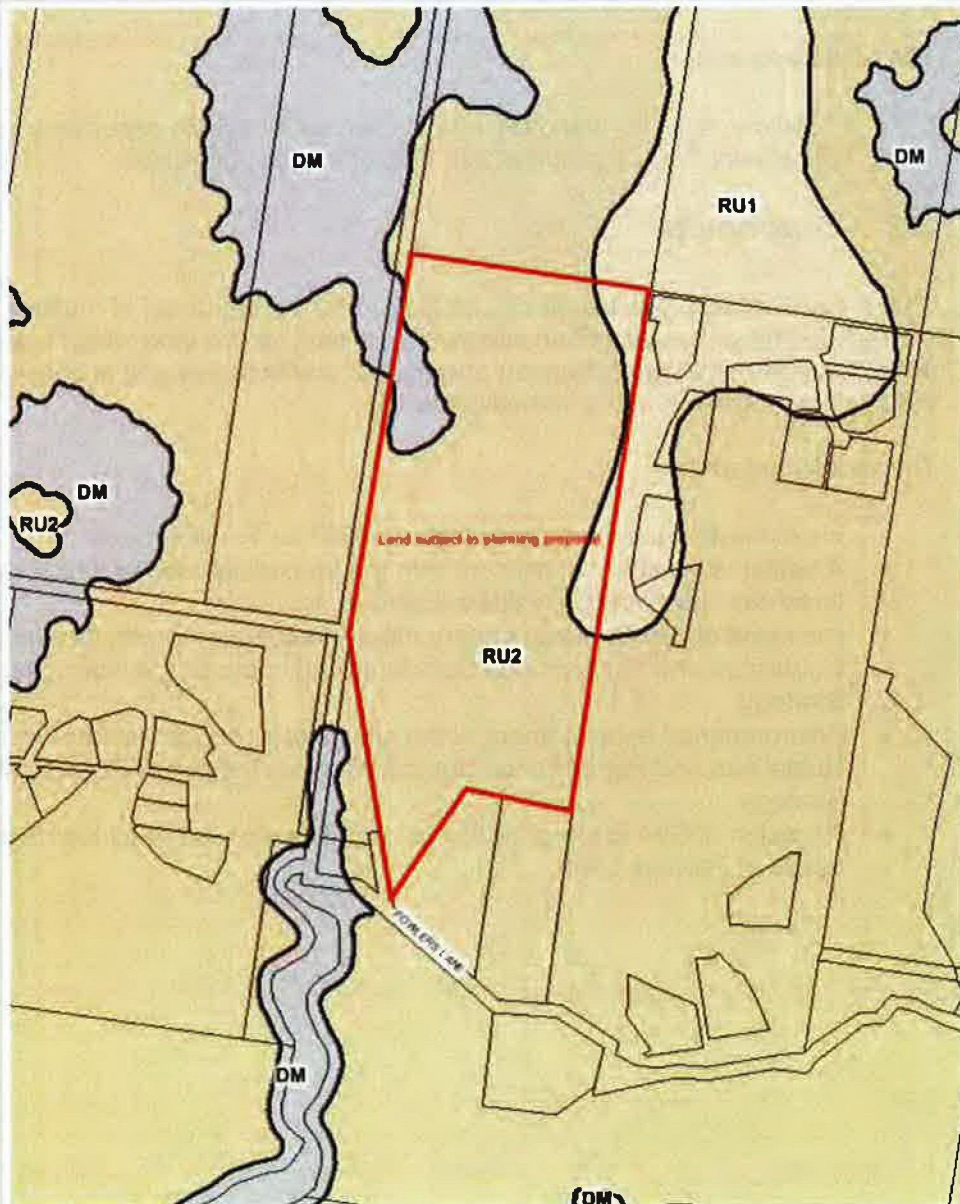
Planning Proposal

226 Fowlers Lane, Bangalow

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Byron LEP 2014 zoning - 226 Fowlers Lane



Disclaimer: While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information shall be at the sole risk of the user. Please verify the accuracy of the information prior to using it.
Note: The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.

Scale = 1:8,000
Metres 200 400

(Scale correct at A4 size)



16/09/2014

Planning Proposal

2 Proposal objectives and outcomes

2.1 Objectives

The objectives are:

- To allow multiple rural dwellings (known as a multiple occupancy) to be permissible with consent at 226 Fowler's Lane, Bangalow.

2.2 Outcomes

That a development application can be lodged for development of multiple dwellings on the site that will be part of an integrated concept for the land which includes rural living, environmental enhancement and agricultural activities and is consistent with the settlement pattern in the immediate locality.

This is able to facilitate:

- Implementing the Council facilitated LAMP for Fowlers Lane
- A settlement pattern consistent with the immediate locality which already has three existing community title subdivisions
- Provision of rural housing opportunities in accordance with the Best Practice Guidelines and Performance Standards within the Byron Rural Settlement Strategy
- Environmental enhancement of the site in accordance with the Best Practice Guidelines and Performance Standards within the Byron Rural Settlement Strategy
- Provision of S94 road upgrading to contribute to the remaining upgrading needs of Fowlers Lane

3 Explanation of provisions to be included in the local plan

The proposed objective and outcome will be achieved by amending the Byron LEP 2014 Multiple Occupancy and Community Title Map to include 226 Fowler's Lane, Bangalow as 'multiple occupancy'.

4 Justifications for objectives, outcomes & provisions

4.1 Need for planning proposal

The development of a multiple occupancy is not permissible on the site under Byron LEP 2014 nor is it identified in the BRSS 1998. A review of the BRSS 1998 by Council is only in its preliminary stages and the timing for completion is unknown. The site is appropriate for development for multiple rural dwellings because it has the same settlement capacity as approved adjoining land and Council has previously assessed the land and confirmed its suitability for a multiple occupancy.

The site was proposed for inclusion on the Multiple Occupancy and Community Title Map in the final Draft LEP however the site was not included in the final LEP. Although not included in the published version of LEP 2014 subsequent advice to Council from DP&E indicated that if the land was still to be included in LEP 2014 a planning proposal should be lodged with Council.

4.1.1 Previous strategic studies

Multiple occupancy is permitted largely throughout the rural areas of NSW, pursuant to SEPP 15, without the need for properties to be within a strategic plan for rural settlement. For some years Byron Council has been excluded from SEPP 15 with planning provisions and guidelines for multiple occupancies being included in the LEP and the BRSS 1998.

The land is not identified in the BRSS 1998 for additional rural dwellings (i.e. multiple occupancy or rural community title subdivision). However the site is appropriate for development for multiple rural dwellings because it has the same settlement capacity as approved adjoining land and Council has previously assessed the land and confirmed its suitability for a multiple occupancy.

This Planning Proposal is a not a direct result of any strategic study or report. Most recently however the site was supported for inclusion on the multiple occupancy map by Council when it was considering submissions on the (then) Draft LEP (refer to Appendix A). However this site was not included in the final LEP. The site was also previously supported by Council for community title subdivision however a previous planning proposal was refused at the Gateway.

The proposal is considered infill development given its location amongst four properties developed or proposed for rural settlement purposes within recent years and is consistent the Local Area Management Plan (LAMP) for Fowler's Lane developed through the BRSS 1998 as follows:

Fowlers Lane LAMP Summary

Encourages Ecologically Sustainable Development which retains the rural character of the area, increases agricultural productivity through better land use methods, protects native flora and fauna as well as improving creeks and waterways.

4.1.2 Achieving objectives, outcomes & alternatives

The objectives and intended outcomes of the Planning Proposal are best achieved by amending Byron LEP 2014 in the manner described within this proposal.

Byron LEP 2014 could be amended in future (via a site specific or more holistic amendment) if the site were identified as suitable for multiple occupancy following the completion of the review of the BRSS 1998 however the timing for completion of the review is unknown at this time.

4.1.3 Community benefits

The community benefits resulting from future development of the site as a multiple occupancy include:

- Locating needed rural housing opportunities in a suitable location which the settlement pattern is already characterised by this form of settlement
- Assists the completion of the upgrading of the local road system which commenced with contributions from the already implemented rural settlement
- Results in positive social and economic impacts in the same manner as evidenced by the implementation of similar concepts on adjoining lands. Such positive impacts include increased housing and lifestyle opportunities, resident involvement in ecological restoration and food production, strengthening social cohesion and revitalisation of local community facilities.

4.2 Relationship to strategic planning framework

4.2.1 Regional strategy

The Far North Coast Regional FNCRS 2006 - 31 (FNCRS 2006 - 31) is the regional strategy applicable to the land.

The rezoning of the land is not inconsistent with the intent of the Far North Coast Regional FNCRS 2006 - 31.

4.2.2 Local strategic plans

The development of the site for multiple occupancy is not identified in the BRSS 1998. A review of the BRSS 1998 by Council is only in its preliminary stages and the timing for completion is unknown.

However based on the Sustainability Criteria in the Far North Coast Regional Strategy and other site attributes the land is demonstrated to be suitable for such development.

4.2.3 State environmental planning policies

A number of State Environmental Planning Policies (SEPPs) apply to the land. The following identifies each of the key Policies and makes brief comment in regards to each.

- *SEPP 14 Coastal Wetlands*

There are no identified SEPP 14 wetlands on or near the site which is located on the elevated hinterland plateau.

- *SEPP 26 Littoral Rainforests*

There are no identified SEPP 26 littoral rainforests on the site which is located on the elevated hinterland plateau.

- *SEPP 44 Koala Habitat Protection*

The land is subject to the provisions of the Policy as the land is greater than 1ha in area. The land does not contain potential koala habitat as not more than 15% of the trees are listed koala food trees as evidenced by Council's vegetation mapping.

- *SEPP 55 Remediation of Land*

The land has been used for rural lifestyle purposes for the past 35 years. The previous use of the land as a grazing paddock of a larger dairy farm is known. The components of the dairy farm that may have generated any contamination such as the dairy, sheds and dip were not located on the subject property. The site was inspected for any potential hot spots and no indication of contamination was evident.

- *North Coast Regional Environmental Plan (NCREP)*

The NCREP, now a deemed SEPP, specifies objectives and directions on a range of matters to be met and undertaken by Councils when preparing local environmental plans and considering development applications. The NCREP only applies to the portion of the site that was deferred from Byron LEP 2014.

Relevant provisions of the REP which apply when considering this planning proposal on the subject site have been assessed. The application is considered consistent with the REP as the proposal results in the protection and improvement of agricultural land, enhances the ecological systems of the site and provides housing opportunities in a suitable manner.

- *SEPP Rural Lands 2008*

The Planning Proposal will permit a multiple occupancy to be developed on the site. Future development of the site (via a development approval) is intended to integrate rural settlement, ecological enhancement and agricultural uses in accordance with the principles of the BRSS 1998 and the Byron Sustainable Agriculture Strategy. The Planning Proposal is mostly consistent with the Rural Planning Principles of the SEPP. The development of the site for multiple dwellings could be considered infill and minor in the context of rural land preservation in the Shire.

4.2.4 Ministerial directions

A number of Ministerial Directions made under Section 117 of the Environmental Planning and Assessment Act 1979 apply to the proposal. The following identifies each of the key Directions which are relevant to the land and Planning Proposal and makes brief comment in regards to each.

- *Direction 1.2 - Rural Zones*

The objective of this direction is to protect the agricultural production value of rural land. The land subject to this Planning Proposal is mapped as State and Regionally Significant farmland and is zoned RU1 Primary Production and RU2 Rural Landscape under Byron LEP 2014 and 1(a) General Rural under Byron LEP 1988. The planning proposal does not seek to change the zoning of the property rather to allow multiple dwellings to be permissible with consent on the site. The site is characterised by slopes not suitable for cropping, significant rock coverage and infestation with camphor laurel (an environmental weed). The inconsistency with this Direction considered of minor significance..

- *Direction 1.3 – Mining, Petroleum Production and Extractive Industries*

The objective of this direction is to ensure that the future extraction of State or regionally significant resources are not compromised by inappropriate development. Council's records do not indicate any State or regionally significant resources on or in the vicinity of the site. NSW Trade and Investment – Resources and Energy will be consulted following a Gateway Determination to proceed with the proposal.

- *Direction 1.5 - Rural Lands*

The objectives of this direction are to:

- (a) protect the agricultural production value of rural land,
- (b) facilitate the orderly and economic development of rural lands for rural and related purposes.

The proposal is mostly consistent with the Rural Planning Principles of SEPP Rural Lands 2008 as addressed in section 4.2.3 above. The inconsistency with the Direction in the circumstances of this property is considered minor.

- *Direction 4.4 - Planning for Bushfire Protection*

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

The land has been identified as containing bushfire prone vegetation. Management of development in bushfire prone land is subject to existing provisions of Section 79BA of the Environmental Planning and Assessment Act 1979 and Section 100B of

the Rural Fires act 1997. The proposal is able to achieve consistency with the bushfire management criteria listed in Clause 6 of the Direction and *Planning for Bushfire Protection 2006*. Council is to consult with the Commissioner of the NSW Rural Fire Service as part of the assessment of the Planning Proposal.

- *Direction 5.1 - Implementation of Regional Strategies*

The outcome of the planning proposal is considered infill development and is of minor significance in the context of this Direction. The planning proposal is not inconsistent with the overall intent of the Strategy 2006 – 31 and achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

- *Direction 5.3 - Farmland or State and Regional Significance on the NSW Far North Coast*

The objectives of this direction are:

- (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,
- (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and
- (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.

The site contains both mapped State Significant and Regionally Significant Farmland. The Planning Proposal constitutes a minor infill development located between existing rural settlement and it does not propose to rezone existing rural zoned land. Rural community title subdivision has already been undertaken on adjoining land mapped as containing State and Regionally Significant Farmland. The proposal is considered to achieve the overall intent of the FNCRS and is also not inconsistent with Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005

- *Direction 6.1 - Approval and Referral Requirements*

The proposed rezoning of the land does not seek to any additional approval and referral requirements.

- *Direction 6.3 - Site Specific Provisions*

The Planning Proposal is considered consistent with the Direction as it does not seek to impose additional controls beyond the identification of the site where a multiple occupancy may be undertaken with development consent.

4.3 Environmental social and economic impact

4.3.1 Critical habitat, threatened species

Council's BRSS will require a subsequent development application to provide an integrated concept which reserves and protects the limited areas of the site

containing ecological values and locates dwelling sites and associated infrastructure on parts of the site with no ecological values. Council's vegetation mapping depicts the site vegetation largely comprising camphor laurel, an environmental weed, with the only good native vegetation located along the riparian corridor. Council's environmental values mapping identifies the site has no koala habitat and the only potential threatened fauna habitat is located away from areas which are suitable for dwellings.

In this context there is little likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

4.3.2 Environmental effects and management

The key possible environmental effects of the use of the land as a multiple occupancy comprising a mix of rural settlement, ecological enhancement and agricultural purposes are as follows:

- *Ecological impacts and enhancement*

Council's BRSS will require a subsequent development application to provide an integrated concept which reserves and protects the limited areas of the site containing ecological values and locates dwelling sites and associated infrastructure on parts of the site with no ecological values. An ecological enhancement management plan that stipulates the location of ecological enhancement to be undertaken will also be required. The combination of avoiding adverse impacts in the design of the proposal together with undertaking a program of ecological enhancement will combine to result in positive ecological impacts.

- *Protection of water systems*

Council's BRSS will require a subsequent development application to assess water and wastewater impacts and also design a proposed site design which protects onsite water systems. Complying with the principles of the BRSS will result in protection of the site's water systems.

- *Traffic impacts*

The additional traffic generated by the proposal will result in contributions being levied on a subsequent development application which will assist towards the finalisation of the upgrading of Fowlers Lane, the local access road.

The multiple occupancy would be implemented after the Pacific Highway has been realigned and the subject land is not accessed via the highway.

- *Bushfire management*

The proposal is able to achieve consistency with the bushfire management criteria within Planning for Bushfire Protection 2006. An assessment of the vegetation and

slope characteristics of the site together with review of the access options result in the site having the capacity to conform with applicable bushfire requirements.

4.3.3 Social and economic effects

Development of a multiple occupancy on the site will result in positive social and economic impacts in the same manner as evidenced by the implementation of similar concepts for development of adjoining lands. Such positive impacts include increased housing and lifestyle opportunities, resident involvement in ecological restoration and food production, strengthening social cohesion and revitalisation of local community facilities.

The site has not been identified as having non-indigenous heritage significance and is not located within the vicinity of a heritage item or conservation area.

4.4 State and Commonwealth interests

4.4.1 Public infrastructure

The primary public infrastructure is Fowlers Lane, the local road access to the site. Fowlers Lane has been partially upgraded from contributions from recent rural settlement within the immediate locality. Payment of developer contributions if a development consent for a multiple occupancy is obtained will contribute towards completion of the upgrading of Fowlers Lane.

The land can be serviced by electricity and telecommunication services which are available to the land.

Other public infrastructure in the form of community facilities and recreation facilities are available in nearby Bangalow. The Byron Contributions Plan provides for this proposal to contribute to such facilities.

4.4.2 State and Commonwealth consultation

This section of the Planning Proposal will be completed following consultation with State and Commonwealth agencies identified in the Gateway Determination. .

It is noted that the proposal is consistent with the land use pattern likely to result from the realignment of the nearby Pacific Highway.

5 Community consultation

Community consultation within the immediate locality has previously been undertaken by a Council facilitated consultation process for this locality (refer Fowlers Lane LAMP) during the preparation of the BRSS 1998.

A summary of the LAMP outcome is as follows as reported in the BRSS:

Encourages Ecologically Sustainable Development which retains the rural character of the area, increases agricultural productivity through better land use methods, protects native flora and fauna as well as improving creeks and waterways.

Appendix B contains a recent letter from the Fowlers Lane Community Group supporting the proposal and noting that the inclusion of this property for further settlement is in accord with the groups LAMP and is required to finish the planned upgrade of Fowlers Lane.

References

1. Byron Shire Council. Byron Local Environmental Plan 1988, as amended.
2. Byron Shire Council. Byron Rural Settlement Strategy 1998.
3. Parsons Brinkerhoff & Byron Shire Council. Byron Local Environmental Study 2007.
4. Byron Shire Council. Draft Byron Local Environmental Plan 2008.
5. NSW Dept of Planning. Far North Coast Regional FNCRS 2006 - 31 (FNCRS 2006 - 31).
6. Department of Planning. 'A Guide to Preparing Planning Proposals' & 'A Guide to Preparing Local Environmental Plans'

Usage Note

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APPENDIX A

COUNCIL RESOLUTIONS PREVIOUSLY SUPPORTING THE PROPOSAL

December 2010

Council at its meeting of 2 December 2010 considered the report "Planning – Biannual Planning Proposals for Amendments to Schedule 8 of the Byron LEP 1988 to allow rural community title settlement" and resolved:

10-1002 Resolved: (relevant extract only)

1. That Council proceed with the planning proposal to amend Schedule 8 of the Byron LEP 1988 to identify 226 Fowlers Lane (Lot 6 DP 261219) for the purposes of a rural community title (village catchment) settlement. Additional information as outlined in the report be received by Council and the progression of this planning proposal not impact on staff resources. A commencement fee of \$2,000 is required.

August 2013

13-388 Resolved that in relation to the draft Byron LEP 2012 Council adopts the following:

1. Insert Lot 6 DP 261219 (226 Fowlers Lane, Possum Creek) on the draft LEP Multiple Occupancy and Community Title map as the site is adjacent existing approved Multiple Occupancy's and Community Title's and consistent with the rural residential character of Fowlers Lane.
2. Include Lot 3 DP786274 (Settlement Road), Lot 12 DP 755712 (240 Charltons Road), Lot 3 DP 732638 (Englisses Road), Lot 11 DP 1039847 (74 Charltons Road), and Lot 16 DP 255603 (Coopers South Lane) on the draft LEP Multiple Occupancy and Community Title map.
3. That a workshop considering further MO/CT submissions and the Multiple Occupancy map be held within one month. (Richardson/Woods)

APPENDIX B

FOWLERS LANE COMMUNITY GROUP



FOWLERS LANE COMMUNITY GROUP

The General Manager, Byron Shire Council, Station Street, Mullumbimby NSW 2482
Don Page MP, PO Box 1018, Ballina NSW 2478

Re: Rural Settlement in Fowlers Lane, Bangalow NSW 2479

19 August 2014

Gentlemen:

The Fowlers Lane Community Group is a long established group representing residents of Fowlers Lane, Bangalow, NSW 2479.

In 1996, this group cooperatively developed a Local Area Management Plan (LAMP), which was utilised in the development of the 1998 Byron Shire Rural Settlement Strategy.

The agreed outcomes of that LAMP were for further rural settlement in the lane. Some Community Title properties in the Lane have since been developed, and the Fowlers Lane upgrade program has allowed the partial upgrade in 2004 of all but the first 1000m of the road from the Pacific Highway. (Section 94 Contributions for this upgrade were made from the Twin Creeks community and Jindibah Intentional community, with additional funds provided by Byron Shire Council.)

The LAMP envisaged that the remainder of the upgrade would be completed by the other properties, agreed to by the LAMP for further rural settlement, paying their share of Section 94 road upgrade contributions.

Council's final adoption of the Byron LEP 2014 included two properties in Fowlers Lane to be zoned for rural settlement. Unfortunately, the gazetted Byron Shire 2014 LEP included one property in the Lane, but inexplicably, not the other.

The outcome of this situation is that now insufficient Section 94 contributions will not allow for the completion of the planned Fowlers Lane upgrade. The portion of the road requiring upgrade has now reached a dangerous, unsafe condition, as evidenced by the attached photos, with accidents occurring as a result.

The Fowlers Lane Community Group urgently seeks that the community-agreed LAMP be allowed to be fully completed, meaning the outstanding property, at 226 Fowlers Lane, be included in the Byron LEP 2014 and thus allow the road to be made safe.

Yours faithfully,

Christopher Sanderson
For the
Fowlers Lane Community Group
Fowlers Lane, Bangalow

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:Byron

Name of draft LEP: Amendment to Byron LEP 2014 to permit a multiple occupancy with consent at 226 Fowler's Lane, Bangalow

Address of Land (if applicable):226 Fowler's Lane, Bangalow (Lot 6 DP 261219)

Intent of draft LEP: To allow multiple dwellings (known as a multiple occupancy) to be permissible with consent at 226 Fowler's Lane, Bangalow

Additional Supporting Points/Information: The site was supported by Council for inclusion in Byron LEP 2014 (on the Multiple Occupancy & Community Title Map as a 'multiple occupancy') post-exhibition of the draft LEP however this site was removed from the published LEP as it had not been subject to community consultation. Council was advised as such by letter from the Acting Secretary (ref. 13/12994) and that if Council wishes to pursue the issue that Council could prepare a planning proposal which would consider community and agency consultation.

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	N			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	N			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		X		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		X		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		X		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage		X		

Office been obtained?				
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		X		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		X		
Is the planning proposal proposed to rectify an anomaly in a classification?		X		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		X		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		X		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		X		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		X		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		X		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		X		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		X		

Does the planning proposal create an exception to a mapped development standard?		x		
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).		x		

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.