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28 January 2010

General Manager
Byron Shire Council
P.O. Box 219
Mullumbimby NSW 2482

Dear Sir

**Re: Planning Proposal for Area 4 – South, Lot 2 in DP 1086364
Ballina Road, Bangalow.**

The subject site was selected for partial rezoning to residential in the Bangalow Settlement Strategy adopted by Council on 2nd December 2003. The site was described as Area No. 4 and in 2003 the Settlement Strategy concluded that the site was suitable for urban development.

The **Aims** of the Bangalow Settlement Strategy adopted by Council on 2nd December 2003 included:

... "an agreed framework between the State, Council and the local community for the orderly and timely rezoning of land for residential and other urban purposes and for the provision of services and infrastructure"

The **Objectives** of the Bangalow Settlement Strategy adopted by Council on 2nd December 2003 included:

... "to provide for planned growth"

The subject site, Area 4- South is owned by Ms Gai Hart – Hughes and in December 2006 the Byron Council invited her to submit a rezoning application given the findings of the Bangalow Settlement Strategy.

In 2007 Planning consultants Parsons Brinckerhoff were commissioned by Council to prepare a Local Environmental Study of Bangalow. Parsons Brinckerhoff

concluded, and as reported to the Council Meeting of 14 August 2008, that the land fronting Ballina Road in Area 4 – South was suitable for **medium density residential housing**.

Accordingly, on behalf of the owner I submit this Planning proposal under the NSW Planning "Gateway System".

For any enquiries please contact myself or Ms Hart – Hughes.

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Planning Proposal

For

Bangalow Area 4 – South.

Jan. 2010

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No.2 Bangalow Settlement Strategy Map of “Investigation Areas”

No. 3 Map of Properties areas identified in the Bangalow Settlement Strategy as potential residential Release areas.

No. 4 “Rezoning Assessment” by Parsons Brinkerhoff Australia Pty Ltd Lot 2 DP 108634 Ballina Road, Bangalow.

No.5 “Rezoning Application comprising Land Capability Analysis Land use Options” by Balanced Systems Planning Consultants, dated March 2007 that includes the following appendices:

- **Engineering Issues Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
- **Preliminary Flora and Fauna Assessment** by Barbara Stewart, Landmark Ecological Services Pty Ltd, dated February 2007.
- **Traffic Impact Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
- **Preliminary Bushfire Assessment** by CREP Chris Power Environmental Planning, February and March 2007.
- **Noise Impact Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
- **Preliminary Investigation of Potential Site Contamination SEPP 55 Assessment** by Balanced Systems Planning Consultants, dated March 2007.
- **Preliminary Flood and Stormwater Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.

Planning Proposal.

1. Objectives and intended outcomes of Proposed LEP.

The objective of this Planning Proposal is to enable the partial development of Lot 2 in DP 1086364 Ballina Road, Bangalow, to be developed for non conventional residential subdivision, i.e. medium density housing along the Ballina Road frontage and the remainder of the site to remain as currently zoned General Rural 1a.

The subject site has been acknowledged in the Bangalow Settlement Strategy (BSS) 2003 and in the Byron Shire Council's Local Environmental Study, BSLES) July 2008, as potentially suitable for medium density housing.

The provision of medium density housing in Bangalow will allow for a range of housing options to reflect the needs of the community. Area 4 –South has been identified as an area where higher density housing will not adversely impact on the character of the village (BSS 2003 p. 17).

Area 4 was identified in the BSS 2003 p 26, as having potential for a mobile home park or caravan park where the land is not constrained by flooding. The subject site is not constrained by flooding.

The BSS also noted of Area 4 that “*alternatives to standard residential subdivision are preferred and are lacking in Bangalow at present. A substantial vegetated buffer to the Pacific Highway is required for amenity and noise reduction*”.

It is to be noted also that the RTA May 2009, has adopted a new location for the upgrading of the Pacific Highway from Tintenbar to Ewingsdale that will see the Highway located some 200 – 300 metres to the east of the present location.

As illustrated on Appendix No.1, part of the subject site is proposed to be rezoned Residential 2a (shown as R3 Medium Density Residential) and the remaining land is to retain the current 1(a) General Rural zone (shown as E3 Environmental Management) .

2. Explanation of Provisions.

The proposed Local Environmental Plan seeks to amend the Byron Shire Local Environmental Plan 1988 by having a portion of the site rezoned to Residential 2(a) (shown as R3 Medium Density Residential) and the remaining land to remain Rural 1 (a) General Rural (shown as E3 Environmental Management) in accordance with the proposed zoning map shown as Appendix No.1.

3. Justification.

A. Need for the planning proposal.

1. Is the Planning proposal a result of any strategic study or report?

The **Bangalow Settlement Strategy 2003** reflects the constraints, and opportunities for development of the Village. It proposes strategies to manage the village's growth over the next twenty years to 2023 so as:

" to maintain the character, image, built form, heritage values and to maximise the use of available land, infrastructure and natural resources to achieve the community's vision"

The Bangalow Settlement Strategy (BSS) 2003 was adopted by Council on 2 December 2003. The Vision Statement for Bangalow is:

"A healthy environment to live, work and raise a family"

The BSS was prepared with reference to the following documents:

- Northern Rivers Regional Strategy
- North Coast Urban Planning Strategy
- Planning NSW Urban Settlement Strategies Guidelines for the North Coast, and
- Byron Council's "Greenprint for a Sustainable Future".

The BSS acknowledges that the Bangalow community are not in favour of significant additional population. The Village has limited growth potential for residential development. There is to be no residential development on flood prone land. No development on slopes greater than 20%.

The Strategy addresses issues and outcomes developed in consultation with the community whilst meeting the Council's obligations under the North Coast Regional Environmental Plan (NCREP) 1988 for a residential development strategy.

Council's subsequent **Byron Shire Local Environmental Study 2008** identified that the land fronting Ballina Road on the subject site, is suitable for medium density housing.

The Strategy does not endorse ongoing growth of Bangalow beyond that which is ecologically, physically, economically and socially sustainable. The Bangalow community have indicated that they are not in favour of significant additional population. The Bangalow strategy plans for limited growth.

The owner of the subject site has provided Council with a rezoning application comprising a "Land Capability Analysis – Land use Options" prepared by Balanced Systems Planning Consultants dated March 2007, Appendix No.5.

Council at its Meeting 14 August 2008 resolved that " *the part of the site fronting Ballina Road is recommended for medium density residential zoning*"

This Planning Proposal is the result of a Council resolution dated 8 October 2009 Item 09 – 814 whereby Council resolved that five (5) sites in Bangalow identified in the Bangalow Settlement Strategy 2003 as release areas and recommended for rezoning in the Byron Shire Local Environmental Study (LES) 2008 be progressed under the new LEP Gateway process.

The Byron **Shire Council's Local Environmental Study, 2008** identified the subject land Area 4- South as suitable for medium density housing as follows:

Area 4 South, Ballina Road, Bangalow

"The site is located between Ballina Road and the Pacific Highway to the east of the village of Bangalow. Access is gained via Ballina Road. The site is currently zoned 1 (a) General Rural under Byron LEP 1988.

An area to the north (Area 4 North) of the site is also proposed for a new zone and whilst this site has been evaluated on its own merit, the planning implications have been considered in tandem with the current proposal for Area 4 South.

The proposal is for alternatives to standard residential development. The applicant states that a mobile home or caravan park as recommended in the Bangalow Settlement Strategy is not suited to this allotment due to noise, bushfire prone land and flood prone land. More substantial forms of construction are required to accommodate these constraints while addressing the demand for non-conventional housing types. The specific zone type is not stipulated, however smaller medium density housing is suggested to support cluster housing or attached/group housing.

Part of Area 4 has been identified as flood prone. However, the flood study provided by the applicant indicates that development will occur above the 1 in 100 year (or 1%) flood level. Further, a buffer between the creek line and the proposed development must be provided. Portions of the land that is greater than 20% in slope have been identified by the proponent and are not suitable for future urban development.

Other environmental concerns associated with the site can be addressed at the DA stage. Any development application prepared for the site will need to

consider the relevant aspects of a new DCP including flooding, drainage, water sensitive urban design, heritage, geotech, etc. There is more discussion of these issues in the Technical Review specific to this site.

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched. For example, the Bangalow Primary School is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a similar way to Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

The proposal for this part of Area 4 is in part inconsistent with the Bangalow Settlement Strategy, which only identifies part of Area 4 as an area for an alternative type of residential use. It is considered that environmental and social constraints associated with development of this land can be managed with a reduced development footprint. Although one option to manage the impacts is linking the proposed development with Area 4 North, this is not considered appropriate due to the environmental constraints of the creek line which divides the two areas.

The proposed concept plan within the rezoning application includes a range of smaller 1 and 2 bedroom dwellings, thus potentially providing access to affordable housing in the Shire. The medium density housing proposed within the application would meet some of the desired need for non-conventional housing types within Area 4. It is important to note that the standard of development would need to be in keeping with the surrounding neighbourhood.

It is recommended that a site specific DCP be prepared which will include design issues, bulk and scale, and site of buildings etc to assist in reducing visual impact. The issue of slope, flooding and access will also need to be carefully considered at DA stage.

The part of the site fronting Ballina Road is recommended for residential zoning and the residue of the site is recommended for environmental zoning as the land is constrained. Although the submission suggests the residential zone should cover more of the site, this is not considered appropriate. A

portion of the site is identified within the settlement strategy for future release, and sufficient justification for its part development is given within the submission, as assessed above.

Recommendation

It is recommended to zone Lot 2 DP 1086364 Ballina Road, Bangalow to part R3 Medium Density Residential and part E3 Environmental Management”.

Source: BSLES pp 187 – 188.

Copies of the **Bangalow Settlement Strategy 2003** and the **Byron Shire Council's Local Environmental Study, 2008** are provided with this planning proposal on Disk.

The “Investigation Areas” as identified in the Bangalow Settlement Strategy are shown on Appendix No.2. The identified areas were further classified into Areas 1, 2, & 3, Areas 4, North Area 4 South (subject site), Area 6 and Area 7 as shown on Appendix No.3.

The specific maps that reflect the Bangalow Settlement Strategy and the Byron Local Environmental Study 2008 can be viewed by in Council's Draft Local Environmental Plan Map: LZN 013.

The LES includes a “Rezoning Assessment” by Parsons Brinkerhoff Australia Pty Ltd dated August 2007 specifically for Area 4 – South (Appendix 4) that concluded:

The proposal for this part of Area 4 is in part inconsistent with the Bangalow Settlement Strategy and has some environmental and social constraints. However, it is considered that these constraints can be managed with a reduced development footprint. One option for this management is potentially linking of the proposed development with Area 4 North, however this is not considered appropriate. The proposal does have positive outcomes as it would provide opportunity to develop alternative housing within Bangalow, particularly medium density housing, thus addressing the Shire's shortage of available residential land.

The proposed concept plan within the rezoning application includes a range of smaller 1 and 2 bedroom dwellings, thus potentially providing access to affordable housing in the Shire. The medium density housing proposed within the application would meet some of the desired need for non-conventional housing types within Area 4. It is important to note that the standard of development would need to be in keeping with the surrounding neighbourhood, environmental constraints of the site and potentially be linked to Area 4 North.

It is recommended that a site specific DCP be prepared which will include design issues, bulk and scale, and site of buildings etc to assist in

reducing visual impact. The issue of slope, flooding and access will also need to be carefully considered at DA stage.

The part of the site fronting Ballina Road is recommended for residential zoning and the residue of the site is recommended for environmental zoning as the land is constrained. Although the submission suggests the residential zone should cover more of the site, this is not considered appropriate. The site is identified within the settlement strategy for future release, and sufficient justification for its part development is given within the submission, as assessed above.

Recommendation

It is recommended to zone Lot 2 DP 1086364 Ballina Road, Bangalow to part R3 Medium Density Residential and part E3 Environmental Management as shown on Figure 5 in Appendix K of the BSLES.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Bangalow Settlement Strategy (BSS) 2003 and the Byron Shire Local Environmental Study (BSLES) 2008 have both recommended the subject land be rezoned for residential development.

An application under the Gateway System is considered the best way. The alternative is to await the Shire Draft LEP that may still be some time away from been accepted by the Director General as suitable for public exhibition.

3. Is there a net community benefit?

The Bangalow Settlement Strategy 2003 was adopted after extensive community input regarding perceptions and concerns about growth and development.

The opportunity to provide medium density housing in Bangalow will allow for a choice of housing type that is lacking in the Village. The choice of housing allows for more efficient use of infrastructure services such as water and sewer. Land prices in Bangalow are relative to the cost of construction therefore there are significant cost benefits by increasing site density.

Medium density housing results in a better use of land than does detached housing. The containment of the village boundaries and keeping new development within walking distance of the village business centre meets the needs for providing a range of housing types.

B. Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The Bangalow Settlement Strategy 2003 and the Byron Shire Local Environmental Study (LES) 2008 both recommended the subject land be rezoned for residential development. The subject land can be serviced and there is a legitimate demand throughout the Shire for closer settlement.

Bangalow is one of a number of Villages listed in the **Far North Coast Regional Strategy (FNCRS)**. This Strategy directs future urban growth to appropriate locations across the Region.

The subject planning proposal is consistent with the FNCRS as medium density residential development reinforces and promotes increased housing choice in the Region. The subject site, Area 4 South, is specifically identified in the FNCRS "Town and Village Growth Boundary Map 2 – Byron".

The **Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies, 2007** set out a series of planning principles which, when implemented through local planning policies, will assist councils in preparing a local growth management strategy to achieve the planning outcomes and actions in the Far North Coast Regional Strategy. As at the date of this planning proposal submission there is no local growth management strategy for Byron Bay.

2. Is the planning proposal consistent with Council's Community Strategic Plan?

The planning proposal is consistent with the Bangalow Settlement Strategy 2003 as discussed above.

The Bangalow Settlement Strategy recognised that there is unmet demand for non-standard residential development within Area 4.

The site is easily accessed from Ballina Road, without adversely impacting on existing residential areas, particularly in terms of traffic volumes and noise.

The sites proximity to the town centre and community facilities, including open space, makes it the most suitable available site within the Bangalow Settlement Strategy to accommodate medium density living.

The proposed development will provide job opportunities during the construction and will bring additional revenue into the local businesses and area once established.

The Council has a Draft Integrated Community Strategic Plan. The purpose of the plan is to identify the community's main priorities and expectations for the future and to plan strategies for achieving these goals. In doing this, the planning process will consider the issues and pressures that may affect the community and the level of resources that will realistically be available to achieve its aims and aspirations.

The draft Social Wellbeing Goal is to *advocate for and empower communities to achieve equitable access to an appropriate range and levels of whole of life services such as healthcare, education, housing and recreation.*

The planning proposal to accommodate medium density housing will go some of the way to ensuring Bangalow residents have a choice to access alternative housing to the standard residential allotment.

3. Is the planning proposal consistent with the state environmental planning policies?

The Planning Proposal has to be assessed for consistency with the applicable State Environmental Planning Policies (SEPP's).

The Byron Shire Council's Local Environmental Study (LES), 2008 Appendix B Page 223 – 242 sets out each SEPP and comments on each with regard the Shire.

Appendix L of the LES specifically addresses the applicable SEPP's in the "Rezoning Assessment" for the subject site and this is reproduced in full in Appendix 4 of this Planning Proposal submission.

The applicable SEPP's and the comments by Parsons Brinkerhoff Australia Pty Ltd applicable to the subject site are:

SEPP 11: Traffic Generating Developments.

A preliminary traffic analysis and traffic information was provided by the proponent. The land should be served by only one access point onto Ballina Road as specified in the traffic assessment. Network upgrades will be required in the form of potential intersection upgrades. The figures used in the traffic assessment are conservative and will need to be revised in the SEPP 11 assessment to be considered as part of DA when scale of development is known.

SEPP 44: Koala Habitat

No Koala habitat is known to occur on the site.

SEPP 55: Remediation of Land

A Stage 1 (SEPP 55) preliminary investigation for potential site contamination was undertaken by the applicant. The preliminary investigation confirmed that there was negligible risk of contamination within the site and that no further investigation, including soil sampling, is warranted. A preliminary investigation was undertaken for an earlier DA applying to the site (DA 10.2005.418.1) for use of a relocated dwelling. At that time, Council determined that the proposed residential use could be undertaken and no further investigations were required.

In addition to the above SEPP's there is the **North Coast Regional Environmental Plan (NCREP)** that is now a deemed SEPP. In Appendix L of the BSLES, Parsons Brinkerhoff Australia Pty Ltd specifically address the NCREP in their Rezoning Assessment dated August 2007 that is reproduced in full in Appendix No 5 of this Planning Proposal.

The Parsons Brinkerhoff Australia Pty Ltd *Rezoning Assessment* pages 12 – 14 (Appendix 4) comment on each of the relevant Clauses in the NCREP on the table titled "*Checklist for consistency of Draft LEP with the Provisions of the North Coast Regional Environmental Plan*."

The NCREP Part 4 Urban Development:

- Clause 7. Agricultural Land.

The Bangalow Settlement Strategy 2003 identifies that the development areas identified in the Strategy will consolidate and define the village edge, rather than allowing urban expansion into agricultural lands. The subject site is not suited to commercially viable agriculture due to its size. The subject site is not described as prime crop or pasture land.

- Clause 38 (1) "*The council should not prepare a draft local environmental plan which permits development that, in the opinion of the council, constitutes significant urban growth unless it has adopted an urban land release strategy for the whole of its local government area*".

The Byron Shire LES and the Bangalow Settlement Strategy are considered to be an urban release strategy.

- Clause 45 – Hazards.

The site has no flood liable land. There are no acid sulphate soils on the site. The area to be rezoned Residential 2a is not bush fire prone. No other hazards were identified.

- Clause 56A – Bus Services.

The site is within walking distance of the commercial area of Bangalow. Bus services are only available into and out of Bangalow on weekdays. There is no public bus service on weekends or Public Holidays.

- **Clause 58 – Services.**
The site can be serviced with town water, sewer and power.
- **Clause 61 – Health and Education.**

The site is located in close proximity to Bangalow services such as the Medical Centre, Bowling Club and Sports grounds. Major services are located in Lismore, Byron Bay and Ballina.

- **Clause 65 – Community Welfare and Child Care Services.**

The site is located in close proximity to Bangalow's facilities. Major recreation facilities are located in Lismore, Byron Bay and Ballina.

- **Clause 78 – Public Recreation.**

The site is within walking distance of the Bangalow Sports fields and associated walkways.

4. Is the planning proposal consistent with applicable Ministerial Directions (S 117 Directions)?

Section 117(2) of the Environmental Planning and Assessment Act 1979
Relevant Section 117 Directions include:

- **1.2 Rural Zones**

DLEPs shall not rezone rural land for a urban purpose unless such action is justified by an environmental study. The subject site has been the subject of both the Bangalow Settlement Strategy 2003 and Byron Shire Council Local Environmental Study, 2008.

- **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 subject site is too small for agricultural pursuits and the proposed rezoning has been justified by the Byron Shire Council

The subject site is too small for agricultural pursuits and the proposed rezoning has been justified by the Byron Shire Council Local Environmental Study, 2008.

- **2.1 Environment Protection Zones**

The subject site is not listed as environmentally sensitive land. This Direction does not affect the site or planning proposal.

- **2.2 Coastal Protection**

The subject site is not within the Coastal protection zone.

- **3.1 Residential Zones**

Specifically the objectives of Direction 3.1 Residential Zones are:

(a) to encourage a variety and choice of housing types to provide for existing and future housing needs

(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and

(c) to minimise the impact of residential development on the environment and resource lands.

In accordance with subclause (4) of this Direction, Council must ensure the Planning Proposal does the following:

(a) broadens the choice of building types and locations available in the housing market;

(b) makes more efficient use of existing infrastructure and services,

(c) reduces the consumption of land for housing and associated urban development on the urban fringe,

(d) is of good design,

(e) does not permit residential development until land is adequately serviced, and

(f) does not reduce the permissible residential density of land.

The provision of medium density housing will add to the variety and choice

of housing in Bangalow and the Shire. The density associated with medium density dwelling ensures the efficient use of infrastructure and other services. It is reasonable to assume that all future dwellings will have to meet the requirements for building sustainability. The future design matters will be assessed at D A Stage.

- **3.2 Caravan Parks and Manufactured Home Estates**

The owners do not wish to develop the site for a caravan park or mobile home park.

- **3.3 Home Occupation**

The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses. Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.

- **3.4 Integrating Land use and Transport**

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) Improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) Increasing the choice of available transport and reducing dependence on cars, and*
- (c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) Supporting the efficient and viable operation of public transport services, and*
- (e) Providing for the efficient movement of freight.*

The development of medium density dwellings will improve the choice for housing for those people seeking such accommodation.

It is anticipated that residents of medium density dwellings will lead to additional population and this may in turn add to the demand for public transport and may see a return of weekend and public holiday bus service.

- **4.3 Flood Prone Land**

The subject site does not have any flood liable land.

- **4.4 Planning for Bushfire Protection**

The southern end of Area 4 South is shown by Council's constraints mapping to be in a bushfire buffer zone. A full bushfire assessment is included in the Balanced Systems Planning Report dated March 2007 as attachment D "*Preliminary Bushfire Hazard Assessment*" by Chris Power Environmental Planning.

- **5.1 Implementation of Regional Strategy.**

Planning proposals must be consistent with a Regional Strategy released by the Minister for Planning. The subject proposal is consistent with the Far North Coast Regional Strategy as outlined in Part B of this planning proposal.

- **5.3 Farmland of 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.

A planning proposal may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning or (an officer of the Department nominated by the Director-General) that the planning proposal is consistent with:

(a) the Far North Coast Regional Strategy, and

(b) Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005,

held by the Department of Planning.

The subject site is considered to be regionally significant farmland, however as it is included in the Bangalow Settlement Strategy it was excluded from regionally significant farmland mapping.

- **6.1 Approval and Referral Requirements.**

No concurrence or referral requirements are intended as part of this planning proposal. A planning proposal must not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of the appropriate Minister or public authority, and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act

The development of medium density housing is not designated development and does not require an Environmental Impact Statement.

- **6.2 Reserving Land for Public Purposes**

No land is proposed for a public purpose.

- **6.3 Site Specific Provisions**

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (b) allow that land use to be carried out in the zone the land is situated on, or*
- (c) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
- (d) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

A planning proposal must not contain or refer to drawings that show details of the development proposal.

The subject planning proposal is to rezone the subject land to part Residential 2a and retain the remaining land as rural 1a Agriculture. The 2a zone allows medium density dwellings.

C. Environmental, social and economic impact.

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be affected as a result of the proposal?

From a reading of the BSLES and the BSS there is little likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be affected as a result of the proposal. The site has not been found to contain any threatened species of Fauna or Flora as reported in the Balanced Systems Planning Report dated March 2007 Appendix B *"Preliminary Flora and Fauna Assessment"* by Barbara Stewart Landmark Ecological Services Pty Ltd dated February 2007.

The site contains no koala food trees. The site is dominated by Camphor Laurel trees. There is one tree with an excellent canopy, a Persimmon tree. The Stewart report found no threatened ecological communities present and due to clearing of the land over time for agriculture prior to the Pacific Highway been relocated to the eastern side of the property, the land has no exceptional ecological value however, if the land affected by the planning proposal contains habitat of any sort, it will be necessary to carry out an assessment of significance in accordance with section 5A of the EP&A Act and the "Threatened Species Assessment Guidelines" issued by the Department of Environment and Climate Change.

The assessment of significance will determine whether there is any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

Notwithstanding the significance of the impact, any adverse impact will trigger the requirement under section 34A of the EP&A Act for the relevant planning authority to consult on the planning proposal with the Director General of the Department of Environment and Climate Change (or the Director General of the Department of Primary Industries, in the case of fish or marine vegetation).

Such consultation, if required, does not take place until after the issuing of the initial gateway determination.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The owners of the subject land have obtained a number of Environmental Reports regarding the site. These Reports comprise:

- **Engineering Issues Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
 - i. **Sewer**
Sewer services can be provided. The owner will be responsible for the reticulation of sewerage and connection to Council mains, at their costs.
 - ii. **Water**
Water supply can be connected.
 - iii. **Stormwater**
Stormwater management can be undertaken in accordance with Water Sensitive Urban D, using on – site detention and filtration of filtration of stormwater.
 - iv. **Electricity**
The site and future development can be connected to the existing electricity supply.
 - v. **Telecommunications.**
The site and future development can be connected to the existing telecommunications supply.
- **Preliminary Flora and Fauna Assessment** by Barbara Stewart, Landmark Ecological Services Pty Ltd, dated February 2007.

The Stewart report found no threatened flora species, populations nor ecological communities present on the site. Threatened fauna habitat values are low as the habitat is poor quality. Breeding is highly unlikely and foraging resources and shelters are small in scale.

There are no Koala food trees on the site.
- **Traffic Impact Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.

The traffic assessment concluded that traffic impact is likely to be a minor issue with regard the rezoning of the site. Any traffic

the site. This will be reviewed at the DCP and DA stages.

- **Preliminary Bushfire Assessment** by CREP Chris Power Environmental Planning, February and March 2007.

The Bushfire Report concluded that acceptable solutions for bushfire protection are achievable on the site. The site has low potential for an intense bushfire; easy access for fire fighting vehicles and safe areas to retreat to in the event of a bushfire.

- **Noise Impact Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.

The Noise assessment recommends that future residential buildings be designed to meet the AS 2107 for noise prevention. The Pacific Highway is located to the east of the site and an existing substantial vegetated buffer has been provided by the RTA as a means of reducing potential noise impacts.

- **Preliminary Investigation of Potential Site Contamination SEPP 55 Assessment** by Balanced Systems Planning Consultants, dated March 2007.

The contamination report concluded that there is negligible risk of site contamination due to historical record of land use.

- **Preliminary Flood and Stormwater Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.

The site is unlikely to be affected by flood waters.

- **Rezoning Application comprising Land Capability Analysis Land use Options** by Balanced Systems Planning Consultants, dated March 2007.
- **Rezoning Assessment** by Parsons Brinkerhoff dated August 2007 for and on behalf of Council.

Development Control Plan

The requirements of Section 74C (2) of the EP&A Act identify that only one DCP per planning authority can apply to the same land. The requirement that only one DCP applies to particular land took effect when a DCP is made on or after 30 September 2005.

The Department of Planning has recently advised that compliance with Section 74C(2) and (5) will only be required once a council has prepared its

The Department of Planning has recently advised that compliance with Section 74C(2) and (5) will only be required once a council has prepared its new principal LEP that adopts the provisions of the Standard Instrument or by 31 March 2011, whichever is sooner.

A future site specific DCP will need to address the following:

- **Biodiversity targets**

Biodiversity targets will need to be supported by detail regarding the level and type of information required for future development applications.

- **Landform, soils and geology:**

a) Specific planning controls will be needed to ensure that urban capability investigations and these assessments include, but are not limited to, addressing geotechnical and environmental issues.

b) The DCP will need to include best practice erosion and sediment control planning for soil and water management. Council will need to ensure this planning occurs concurrently with engineering design and in advance of earthworks.

c) The DCP will also be required to address:

- Any areas identified with shallow soils, slope instability, high water tables, low water-holding capacity and/or flooding,
- Any moist ground and land subject to localised flooding,
- Any landslide activity.

- **Flooding and stormwater**

To address landform, soils and geology within the new DCP:

- Part N of Byron DCP 2002 specifies Council's approach to stormwater management. This will need to be reviewed to align with the principles of Water Sensitive Urban Design in the future.*
- All future development should be subject to Shire-wide development controls that require minimal impact on the natural water cycle.*
- Specific development guidelines for flood-prone land should support the proposed LEP.*

- **Climate change**

The following are recommendations to address climate change within the DCP:

a) In the absence of complete climate change information, current best estimates on climate change may be used as the basis to develop detailed planning controls such as:

- suggested land title restrictions
- changes to infrastructure design and planning to ensure that the ecological response to climate change can be accommodated;
- assessment criteria for building design to accommodate climate change, i.e. increased storm events, temperatures etc.

- **Social issues**

The following are recommendations to address social issues within the DCP:

a) The Byron Shire Affordable Housing Strategy for Urban Areas 2002 included an implementation plan that has been adopted by Council. The Shire wide DCP will need to incorporate the recommendations of this strategy to implement the relevant strategies and initiatives. Council should include an affordable housing section in the Shire wide DCP to encourage affordable housing through provision of offsets.

b) The recently exhibited Social Impact Assessment DCP should be incorporated in the DCP, with amendments as suggested during the public exhibition of the document.

- **Cultural amenity**

The Shire wide DCP will need to consider the establishment of clear guidelines for future development of the towns and villages within the Shire. This would include clear vision statements consistent with the outcomes of the various settlement strategies.

- **Tourism**

The following are recommendations to address tourism within the DCP:

a) Council will need to establish urban and rural controls relating to scale, form, streetscape, access, parking and

landscaping for tourism related development.

b) If holiday letting is included in the new LEP as permissible then detailed guidelines will need to be included in the DCP that consider such issues as noise, parking, waste removal, floor space etc.

- **Heritage**

The following is a recommendation to address heritage within the DCP:

a) In the case of character precincts, specific planning and design controls will need to be addressed in the Shire wide DCP to ensure that new development is consistent with the built form and amenity of these areas.

- **Rural areas**

The Shire wide DCP will need to establish planning controls to protect agriculture from encroachment from incompatible uses, particularly residential uses. Planning controls such as establishment of buffers and related controls will be needed to adequately address the issues of farmland protection and allow for effective implementation of regional guidelines.

3. How has the planning proposal adequately addressed any social and economic effects?

The Byron Shire **Development Control Plan No.21 – Social Impact Assessment** and the BSLES identified that a social impact statement will be required at the Development Application stage if the development is greater than:

a) Residential development for twenty dwellings or more in an urban area,

b) Residential development for ten dwellings or more in a rural or environmental protection area (including multiple occupancy developments),

c) Subdivision for twenty or more allotments in an urban area (including community title subdivisions),

d) Subdivision for ten or more allotments in a rural or environmental protection area (including community title subdivisions),

- e) An 'Affordable housing' project,
- f) Manufactured home estates or caravan park,
- g) Boarding houses,
- h) Seniors Living.

The primary aims of this Plan are:

- *To ensure development applications for certain developments that are likely to have a significant social impact are properly considered in accordance with the Environmental Planning and Assessment Act 1979, the North Coast Regional Environmental Plan 1988 and the Byron Local Environmental Plan 1988; and*
- *To achieve maximum social benefit for the community from particular development activity and to mitigate the negative social impacts.*

The general objectives of this Plan are:

- *To assist in achieving cohesive, sustainable and resilient communities within the Shire;*
- *To enhance consistency, certainty and transparency in Council's assessment of the positive and negative social impacts of proposed development;*
- *To maximise the positive social impacts of development such as improved access, amenity, affordable housing provision, employment opportunity and safety; and*
- *To minimise the negative social impacts of development such as increased traffic congestion, restriction of access to facilities, services and transport, loss of employment opportunity, loss of existing affordable housing stock, loss of public safety or perceived public safety.*

Documentation of the research, consultation and analysis must be in the form of a Social Impact Assessment Report and should include:

- *The Social Impact Assessment Scope,*
- *Community profiling,*
- *Identification of issues (both positive and negative),*

- *The methodologies employed by the study to measure impacts,*
- *The primary and secondary data collection methods,*
- *The primary and secondary data collected,*
- *Method of analysis employed and a discussion and analysis of the issues,*
- *Identification and measurement of likely impacts,*
- *Range of options for proceeding with the proposal, and*
- *Recommendations including suggested mitigation measures for negative impacts that have been identified and/or strategies to monitor and manage negative impacts over time.*

There are no heritage items identified on the site having regard to Council's Community Based Heritage Study.

The need for medium density housing has been identified in all of the listed planning documents for Bangalow and it is most unlikely that there will be any detrimental social and economic impacts as a result of the site been developed for medium density housing.

Again, if it is necessary to undertake technical studies or investigations to address an identified matter, these should be undertaken following the initial gateway determination.

D. State and Commonwealth Interests.

1. Is there adequate public infrastructure for the planning proposal?

Existing services / utilities are adequate to cater for the level of additional demand created by this additional residential area. Note, the question of State or Commonwealth interests applies to a planning proposal that may result in residential subdivision in excess of 150 lots, substantial urban renewal, or infill development.

2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Planning Proposals are an evolving process with information to be added upon advice of the Minister through the Gateway determination.

This section will be added to following consultation with State and Commonwealth authorities identified in the gateway determination.

E. Community Consultation.

The proposal is considered to be a low impact proposal.

Council will put the application on public display for 14 days and call for submissions from interested persons. Community consultation will be in accordance with the Department of Planning's "*A Guide to preparing an LEP*" and any requirements of the Gateway process.

* The subject site has been the subject of the following annexed Reports:

- **Engineering Issues Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
- **Preliminary Flora and Fauna Assessment** by Barbara Stewart, Landmark Ecological Services Pty Ltd, dated February 2007.
- **Traffic Impact Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
- **Preliminary Bushfire Assessment** by CREP Chris Power Environmental Planning, February and March 2007.
- **Noise Impact Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
- **Preliminary Investigation of Potential Site Contamination SEPP 55 Assessment** by Balanced Systems Planning Consultants, dated March 2007.
- **Preliminary Flood and Stormwater Assessment** by Greg Alderson and Associates Pty Ltd. Dated 25 March 2007.
- **Rezoning Application comprising Land Capability Analysis Land use Options** by Balanced Systems Planning Consultants, dated March 2007.
- **Rezoning Assessment** by Parsons Brinkerhoff dated August 2007 for and on behalf of Council.
- **Extracts from Byron Council's Ordinary meeting 14 August 2008** recommending the subject site be rezoned for Medium density.

- **Bangalow Settlement Strategy 2003.**
- **Byron Shire Council Local Environmental Study, Parsons Brinckerhoff, July 2008**

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