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Planning Proposal

For

Bangalow Area 4 - North

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Table of Contents

1.	Objectives and intended outcomes of Proposed LEP.....	6
2.	Explanation of Provisions of Proposed LEP.....	7
3.	Justification of Objectives, Outcomes and Provisions and Processes for their Implementation.....	7
	A. Need for the Planning Proposal.....	7
	1. Is the Planning Proposal a result of any Strategic Study or Report?.....	7
	2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?.....	10
	3. Is there a net Community Benefit?.....	11
	B. Relationship to Strategic Planning Framework.....	12
	1. Is the Planning Proposal consistent with the objectives and actions contained within the applicable Regional or sub-regional Strategy?.....	12
	2. Is the Planning Proposal consistent with Council's Community Strategic Plan?.....	13
	3. Is the planning proposal consistent with the State Environmental Planning Policies?.....	13
	4. Is the Planning Proposal consistent with the applicable Ministerial Directions (S 117 Directions)?.....	16
	C. Environmental, Social and Economic impact.....	21
	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?.....	21
	2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?.....	21
	3. How has the planning proposal adequately addressed any social and economic effects?.....	25

D. State and Commonwealth interests.....	27
1. Is there adequate public infrastructure for the planning proposal?.....	27
2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?.....	27
4. Community Consultation.....	27

List of Appendix's

- **No.1 Map Area 4 South proposed rezoning**
- **No.2 Bangalow Settlement Strategy Map of "Investigation Areas"**
- **No. 3 Map of Properties part of Bangalow Settlement Strategy Release areas.**
- **No.4 "Rezoning Assessment" by Parson Brinkerhoff Australia Pty Ltd , August 2007**
- **No.5 "Information for consideration in Shire – wide LES, by Environmental Resources Management Australia Pty Ltd dated 29 March 2007.**
- **No. 6 " Plans" by Environmental Resources Management Australia Pty Ltd.**
 - **Site analysis plan**
 - **Existing services plan**
 - **Existing stormwater catchment and discharge plan**
 - **Stormwater management plan**
 - **Plan of new Pacific highway route**
 - **Concept plan No.1 self contained dwellings**
 - **Concept plan No.2 residential subdivision.**
 - **Proposed zoning plan.**
- **No 7. "Report on Engineering matters" by Robert Dennis and Associates, Civil and Structural Engineers, undated.**
- **No.8 "Flora and Fauna Assessment" by James Warren and Associates, Feb. 2007**
- **No.9 "Noise Level impact Assessment- Road traffic noise" by Craig Hill Acoustics, 27 March 2007.**
- **No. 10 "Assessment of the extent of potential contamination: Remedial action plan and associated validation report" by John Lyons, Soil Pacific, October 2001.**
- **No. 11 "Contaminated Soil report – Preliminary Site investigation) by Irwin and Cooney, Building Assessment Services. 9/12/2000.**

- **No.12 “Table – Anticipated vehicle movements to and from site”**
- **No. 13 Plan – Location of vehicle access from site to Ballina road”**
- **No. 14 Correspondence “Ferros Care Administration” dated 17 June 2004.**
- **No. 15 Plan – relationship of site to Ferros Village Bangalow**
- **No. 16 Correspondence, Robert Dennis to Byron Shire Council dated 13 June 2007 re “Bangalow Settlement Strategy” 3pp’s.**

Planning Proposal.

Bangalow Area 4 - North

1. Objectives and intended outcomes of Proposed LEP.

The objective of this Planning Proposal is to enable the development of Lot 22 in DP 1070522 and lot 4 in DP 233810 Ballina Road, Bangalow for low to medium density residential housing with two development options:

1. A mixture of low density (6 new lots with access to Blackwood Crescent) and a major component of medium density in the form of a 52 unit seniors living residential development with self-contained dwellings; or

2. A low to medium density residential subdivision of 37 new lots with access to both Ballina Road and Blackwood Crescent.

The subject site has been acknowledged in the Bangalow Settlement Strategy 2003 and in the Byron Shire Council's Local Environmental Study, July 2008, as potentially suitable for medium density housing as described above as Option 1 or 2. The provision of medium density will allow for a range of housing options to reflect the needs of the community. Area 4 – North has been identified as an area where higher density housing will not adversely impact on the character of the village (BSS 2003 pp 22). The development of seniors housing on the site will benefit from the existing and adjoining development that comprises an existing aged care nursing home (Ferros Village) and the Bangalow Medical Centre. The site is generally level and within walking distance to the commercial area and Bowling Club.

Housing for seniors or people with a disability has to satisfy the State Environmental Planning Policy - *Housing for Seniors or People with Disability* 2004. The purpose of this SEPP is to encourage the development of high quality accommodation for the ageing population and for people with disabilities. The aims of the SEPP for seniors housing is to encourage the provision of housing (including residential care facilities) that will:

- *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- *make efficient use of existing infrastructure and services, and*
- *be of good design.*

As illustrated on annexure No.1, part of the subject site is proposed to be rezoned Residential 2a and the remaining land is to retain the current 1(a) General Rural zone.

Lot 22 DP 1070522 and lot 4 DP 233810 have a combined area of 5.76 hectares.

Lot 4 has a timber cottage erected upon it while Lot 22 is mostly cleared land currently used for agriculture with cattle grazing.

2. Explanation of Provisions of Proposed LEP.

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 annexure No.1.

3. Justification of Objectives, Outcomes and Provisions and Processes for their Implementation.

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 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.

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. With regard the subject site, the strategy proposes the facilitation of affordable housing and aged housing. The strategy page VI states:

" Included in the first stage will be an amendment to the planning scheme to permit the development of land at the south east of the village (Area 4), but not for residential subdivision. This land is suitable for alternative forms of development such as a caravan park, aged care facilities, motel manufactured homes or eco - village development"

The **Byron Shire Council's Local Environmental Study, 2008** identified the subject land as suitable for medium density housing as *Seniors Living* given the

close proximity to existing aged care facilities and medical services immediately adjoining the site whilst retaining the flood prone area that exists along the intermittent unnamed creek for environmental management. This planning proposal recommends that the flood prone land remain zoned as Rural 1a pending the completion of the Shire Local Environmental Plan.

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 Annexure 2. The identified areas were further classified into Areas 1, 2, &3, Areas 4, North (subject site), Area 4 South, Area 6 and Area 7 as shown on Annexure 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.

Byron Shire Council Local Environmental Study, 2008. (Extract)

The Council has adopted the Byron Shire Local Environmental Study 2008 and the subject site Area 4 North, Ballina Road, has been investigated and the consultants reported that:

"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 south (Area 4 South) of the site is also proposed for rezoning 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 North.

The proposed use of the site is low to medium density development with two options:

- 1. A mixture of low density (6 new lots with access to Blackwood Crescent) and a major component of medium density in the form of a 52 unit seniors living residential development with self-contained dwellings; or*
- 2. A low density residential subdivision of 37 new lots with access to both Ballina Road and Blackwood Crescent.*

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 the lack of support for this type of development in Bangalow and its location and proximity to the existing residential development and nursing home.

The proposed zone requested by the applicant is R1 General Residential or R3 Medium Density Residential and E2 Environmental Conservation Zone.

Part of Area 4 has been identified as flood prone. However, the information provided by the applicant indicates that development shall occur above the 1% flood level. Further, a buffer between 10 and 30 metres has been provided to the creek line. Portions of the land 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. These issues are discussed further in the Technical Review of this particular 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, such as the Bangalow Primary School that 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. There is unmet demand for seniors living type accommodation and this has been recognised in the Bangalow Settlement Strategy. 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 Bangalow Settlement Strategy recommends non-standard residential development within Area 4. The rezoning of the site to facilitate medium density, possibly incorporating seniors living, would be suitable given the close proximity to existing aged care facilities and medical services. Further, the site is easily accessed from Ballina Road, without adversely impacting on existing residential areas, particularly in terms of traffic volumes and noise. Its 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 and in particular seniors living. It would help meet the housing demand facing Byron Shire to cater for its increasing aging population.

In addition, if possible there is potential for Area 4 North and South to be integrated rather than developed in isolation, however due to the environmental constraints of the creek line, this appears to be an unlikely option.

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.

In light of the above and the site being identified within the Bangalow settlement strategy, the proposed zoning to accommodate medium density residential is justified and considered desirable for the area.

Recommendation

It is recommended to zone Lot 22 DP 1070522 and Lot 4 DP 233810 Ballina road, Bangalow part R3 Medium Density Residential and part E3 Environmental Management as shown on Figure 2 in Appendix K".

Source: BSLES Page 185 - 187

The LES includes a "Rezoning Assessment" dated August 2007 specifically for Area 4 – North and concluded:

"The Bangalow Settlement Strategy recommends non-standard residential development within Area 4. The rezoning of the site to facilitate medium density, possibly incorporating seniors living, would be suitable given the close proximity to existing aged care facilities and medical services. Further, the site is easily accessed from Ballina Road, without adversely impacting on existing residential areas, particularly in terms of traffic volumes and noise. Its 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 and in particular seniors living. It would help meet the housing demand facing Byron Shire to cater for its increasing aging population....

In light of the above and the site being identified within the Bangalow settlement strategy, the proposed zoning to accommodate medium density residential is justified and considered desirable for the area".

Source: Parsons Brinckerhoff Aug. 2007
Page 6 Annexure 4.

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 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 the owners may wish to proceed with the development of seniors and disabled people's residential accommodation for which there is a legitimate demand throughout the Shire.

Byron Shire Council has a draft *Positive Ageing Policy* that states that ...
"forward planning is critical to prepare for the differing needs and expectations of older people and to maximise opportunities for positive interactions within the communities and across generations. Living longer offers unprecedented opportunities and it also presents individuals and the community with challenges around quality of life in old age and the increased resources required to cater to the growing numbers of people aged 70 and over"

The Council's Draft Positive Ageing Policy reflects the NSW Department of Planning advice that flows:

The NSW Department of Planning Far North Coast Regional Strategy 2006-2031 predicts the population of the Byron Shire will grow by around 10,000 people in 2031. Projecting age cohorts from 2006 to 2031 shows a dramatic increase in the 50 to 65+ age groups. As the population is becoming more educated, it can be expected aspirations and the demand for quality infrastructure and services will be high. The community will expect Council to provide well maintained, accessible community buildings, safe public spaces, safe well-lit walk and cycle paths and opportunities for social interaction. Other areas of critical importance for an aging community outside of Councils direct control include access to health services, support services and aged care options. Reliable, regular transport and affordable housing options will also be critical.

The rezoning of the subject site will assist in meeting in part the NSW Department of Planning predictions for population growth.

The Byron Shire Council's *draft Positive Ageing Policy 2010* states that Council *"values and recognises the significant contribution that its ageing residents make to the community and is committed to planning, providing and advocating for a range of services and facilities that will support the aged population in leading healthy and fulfilling lives"*.

Should the owner determine that seniors housing is not their preferred development then they may prefer option 2 and propose a medium density residential subdivision and development in accordance with BSC and state government housing policies and standards with access to both Ballina Road and Blackwood Crescent.

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 Bangalow Strategy said of the subject site that ...*"this land is suitable for alternative forms of development such as a caravan park, aged care facilities, motel manufactured homes or eco - village development"*.

The site adjoins the existing Bangalow Medical Centre and the Ferros Aged Care Facility. The Ferros Care Facility (nursing home) is a community owned non profit organisation that provides residential and community care to the aged

in the Byron Shire since 1977. Ferros wish to provide more care facilities and they concur that independent living villas and low level residential care facilities operating next to their nursing home would provide a range of care options for persons depending on their needs.

The Byron Local Environmental Study (LES) 2008, page 186, recommended rezoning of the subject site to permit seniors living with the following comments:

"The rezoning of the site to facilitate medium density, possibly incorporating seniors living, would be suitable given the close proximity to existing aged care facilities and medical services. Further, the site is easily accessed from Ballina Road, without adversely impacting on existing residential areas, particularly in terms of traffic volumes and noise. Its 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 and in particular seniors living. It would help meet the housing demand facing Byron Shire to cater for its increasing aging population".

The community benefit by rezoning of the subject site is the provision of greater housing choice as seniors living is underprovided in Bangalow or the provision of additional medium density residential housing that allows for alternative types of dwellings. The NSW department of Housing has advised that it is experiencing an increase for demand for 1 and 2 bedroom dwellings (BSS 2003 pp.9).

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?

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 either seniors living or medium density residential development as both reinforces and promotes increased housing choice in the Region. The subject site, Area 4 North, is specifically identified in the FNCRS "Town and Village Growth Boundary Map 2 – Byron".

A senior's housing development will contribute to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.

The development senior's housing will improve the existing level of sub-regional employment and assist meet the subregional employment projections.

There will be no residential development within 1:100 floodplain or physically constrained land, e.g. High slope or highly erodible.

A senior's housing development will avoid any land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy.

Area 4 North has an available and safe evacuation route in times of flood and or bushfire.

Development for seniors living or medium density residential housing is consistent with the outcomes of Far North Coast Regional Strategy.

The site is accessible by Public transport.

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 seniors living type accommodation and or 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 or seniors 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 or seniors living will go some of the way to ensuring Bangalow residents have access to appropriate housing and / or ongoing health care.

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 Annexure 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.

An initial traffic analysis was provided as part of the additional information supplied by the proponent. The traffic analysis found that the potential future traffic movements are acceptable with regard to the local road network; however, potential additional traffic from Area 4 South has not been considered in this traffic assessment (refer to Area 4 South assessment). Issues such as upgrades of Ballina and Bangalow Roads, inability to access the new Pacific Highway and provision of a new intersection to the site must be addressed. Traffic management and SEPP 11 can be considered at the DA stage, including road network upgrades section 94 contributions.

SEPP 44: Koala Habitat

No Koala habitat is known to occur on the site.

SEPP 55: Remediation of Land

The submission adequately addresses potential for land contamination. A preliminary assessment found the site was contaminated but has been adequately remediated and certified. Further assessment can be undertaken at a DA stage if 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 BLES Parsons

Brinkerhoff Australia Pty Ltd specifically address the NCREP in their Rezoning Assessment dated August 2007 that is reproduced in full in Annexure 4 of this Planning Proposal.

The Parsons Brinkerhoff Australia Pty Ltd *Rezoning Assessment* pages 12 – 14 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 some flood liable land. The flood liable land is not to be developed.

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. Note a *Contamination Assessment and Validation*, by Soil Pacific (2001) confirmed the lack of contamination on the site.

- 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. It is anticipated that a seniors living estate will have a community bus in addition to those residents that may still have use of private vehicles.

- Clause 58 – Services.

The site can be serviced with town water, sewer and power.

- Clause 61 – Health and Education.

The Byron Shire Local Environmental Study, 2008 identified the subject land as suitable for medium density housing and or Seniors Living given the

close proximity to existing aged care facilities (Ferros Village Nursing Home) and medical services (Bangalow Medical Centre) immediately adjoining the site.

- **Clause 65 – Community Welfare and Child Care Services.**
The provision of seniors living in an Aged Care Facility satisfies the requirement for community welfare. Seniors are unlikely to require child care services.
- **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)?

The relevant Section 117 Directions of the Environmental Planning and Assessment Act 1979 include

- **1.2 Rural Zones**

DLEPs shall not rezone rural land for an 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 viable agricultural pursuits and the proposed rezoning has been justified in the Byron Shire 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**

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 and / or seniors housing will add to the variety and choice of housing in Bangalow and the Shire. The density associated with either medium density dwelling or seniors housing 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**

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

- **3.3 Home Occupations**

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. It is not anticipated that

seniors will need to establish low impact small businesses. If and when such a situation arises the senior's management group will make a determination. Should the owner prefer medium density development then home occupations will be allowed.

- **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 either medium density dwellings or senior's housing will improve access to appropriate housing for those people who are eligible for such accommodation.

It is envisaged that a community bus will be provided and for those future residents of a seniors living estate that wish to travel and this will reduce private car dependence. It would be 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 have some flood affected land. Flood prone land has been identified in the LES. The planning proposal does not seek to develop any flood prone land for urban development. The flood prone land may be suitable for open space albeit private recreation. Any such likelihood will be addressed at DA stage.

- **4.4 Planning for Bushfire Protection**

No bushfire land has been identified in area proposed for residential seniors housing.

- **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 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 seniors living or 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 for both seniors living in accordance with the Seniors SEPP and medium density dwellings.

The *Seniors SEPP* aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

(2) These aims will be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy,*

and

(b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and

(c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.

The development of either seniors housing or medium density on the subject site will be in accordance with applicable State policies, Council's requirements and best practice for such accommodation.

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 reading of the BLES and the BSS plus personal site inspections, 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 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 applicant has provided Council with a Flora and Fauna Report by James Warren and Associates, 2007 Annexure 8

The James Warren and Associates Report found development of the site would have no significant impact on threatened species. The report acknowledged the ecological consideration of the creekline to the south of the site and a small clump of native rainforest trees near the northern boundary. The Report concluded that no further consideration of ecological assessment is necessary, subject to compliance with their recommendations that included a riparian buffer to the creek.

The site does not occur with any key habitat or wildlife corridors as mapped by National Parks.

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

The owners of the subject land have obtained a number of Environmental Reports regarding the site. These Reports comprise:

- Engineering Matters, by Robert Dennis and Associates Pty Ltd, 2007. Annexure No. 7
- Flora and Fauna Report, by James Warren and Associates, 2007 Annexure No. 8
- Acoustics Assessment, by Craig Hill Acoustics, 2007 Annexure No. 9;
- Contamination Assessment and validation, by Soil Pacific (2001) Annexure No. 10.
- Land Capability Report by ERM March 2007 Annexure No. 6

The ERM Land Capability Report was prepared having regard to each of the above documents.

These documents are annexed to this Planning Proposal and the following is a brief summary from the ERM Land Capability Report:

- **Servicing**

Water supply, reticulated sewer and electricity are all available to the site.

- **Drainage and Flooding.**

The land drains to an unnamed ephemeral first order stream in the south west of the site. This stream runs into Byron Creek. Areas of the site have been identified as flood liable at RL 45.68 M AHD. The flood waters are described as "low velocity backwater flooding". The land to be rezoned Residential 2a is clear of any flood waters by 10 to 30 metres.

The site has sufficient area to accommodate management of stormwater in accordance with Water Sensitive Urban Design, on-site detention and filtration of stormwater.

- **Traffic and Access.**

Traffic will be able to use the external road network that includes a road reserve adjacent to the property that is in excess of 30 metres. The road reserve has a suitable grade that will enable construction of an intersection that will meet the Austroads and RTA Guidelines.

- **Flora and Fauna.**

The Flora and Fauna Report found no threatened species on the site. The site is not mapped as a wildlife corridor or key habitat.

- **Land Contamination.**

The site has been the subject of a contamination assessment in 2001 and lead was found on the land. The lead has been removed and Soil Pacific have concluded that the site has no contaminants and is suitable for residential development.

- **Bushfire.**

The site contains no Bushfire land.

- **Slope.**

Any slope over 20% will be excluded from development. Note: the site has some slopes greater than 15%. A detailed survey will be required at DA stage.

Any development application prepared for the site will need to consider the relevant aspects of a site specific Development Control Plan, including flooding, drainage, water sensitive urban design, heritage, and geotech.

- **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 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:

- areas identified with shallow soils, slope instability, high water tables, low water-holding capacity and/or flooding,
- moist ground and land subject to localised flooding,
- 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 new 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 (e.g. culverts under roads to allow saltmarsh to re-colonise)
- 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 new DCP:

- 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 new 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 new 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 parking, waste removal, floor space etc.

- **Heritage**

The following is a recommendation to address heritage within the new 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?

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

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

Byron Shire Development Control Plan No.21 – Social Impact Assessment

The LES identified that a social impact statement will be required at the Development Application stage.

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.*

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.

This planning proposal is considered to be a low impact proposal requiring 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:

- **Rezoning Assessment** by Parsons Brinkerhoff dated August 2007 for and on behalf of Council. **Annexure No. 4**
- **“Information for consideration in Shire – wide LES, by Environmental Resources Management Australia Pty Ltd dated 29 March 2007. Annexure No.5**
- **“ Plans” by Environmental Resources Management Australia Pty Ltd.**
 - **Site analysis plan**
 - **Existing services plan**
 - **Existing stormwater catchment and discharge plan**
 - **Stormwater management plan**
 - **Plan of new Pacific highway route**
 - **Concept plan No.1 self contained dwellings**
 - **Concept plan No.2 residential subdivision.**
 - **Proposed zoning plan, Annexure No. 6**
- **Engineering Matters** by Robert Dennis and Associates Pty Ltd, 2007 **Annexure No. 7**
- **Flora and Fauna Report** by James Warren and Associates, 2007 **Annexure No. 8**
- **Acoustics Assessment**, by Craig Hill Acoustics, 2007; **Annexure No. 9**
- **Contamination Assessment and validation**, by Soil pacific (2001) **Annexure No. 10.**
- **“Contaminated Soil report – Preliminary Site investigation) by Irwin and Cooney, Building Assessment Services. 9/12/2000. Annexure No. 11**
- **“Table – Anticipated vehicle movements to and from site” Annexure No.12**
- **Plan – Location of vehicle access from site to Ballina road” Annexure No. 13**
- **Correspondence “Ferros Care Administration” dated 17 June 2004. Annexure No. 14**
- **Plan – relationship of site to Ferros Village Bangalow No. Annexure 15**
- **Correspondence, Robert Dennis to Byron Shire Council dated 13 June 2007 re “Bangalow Settlement Strategy” Annexure No. 16.**

Byron Council will supply the following:

- **Extracts from Byron Council's Ordinary Meeting 14 August 2008** recommending the subject site be rezoned for Medium density.
- **Bangalow Settlement Strategy, 2003.** CD provided by Council.
- **Byron Shire Council Local Environmental Study**, Parsons Brinckerhoff, July 2008. CD provided by Council.

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