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30 January 2010

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

Dear Sir

Re: Planning Proposal for Areas 1, 2 and 3 Bangalow, known as Lot 101 in DP 1127017, Rankin and Granuaille Road, Bangalow.

The subject site was selected for possible rezoning to residential in the Bangalow Settlement Strategy adopted by Council on 2nd December 2003. The subject properties are described as Area's No. 1, 2 and 3 in the Bangalow Settlement Strategy.

The **Aims** of the Bangalow Settlement 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"

A fundamental function of planning is to cater for future generations by the long term availability of adequate land supplies.

In 2008 Town Planning consultants Parsons Brinckerhoff were commissioned by Council to prepare a Local Environmental Study for the Shire that included Bangalow. They concluded, and as reported to the Council Meeting of 14 August 2008, Area's 2 and 3 were considered appropriate for rezoning and Area 1 was recommended for deferment pending a slope stability and geotechnical study to confirm Area 1's suitability for residential development.

In addition Council and the owner of Area 1 are in negotiations for part of the site to be used as Public Lookout in the vicinity of the Water Tower.

In accordance with Council's resolution to have land identified in Bangalow Settlement Strategy progressed for rezoning to residential use, I submit this Planning Proposal under the NSW Department of Planning's "Gateway System" on behalf of the owner

For any enquiries please contact myself or Max Campbell on ph 66854854.

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Planning Proposal

For

Bangalow Area 2 and 3

Jan. 2010

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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 development of Lot 100 in DP 1127017 and the partial development of Lot 101 in DP 1127017, Rankin and Granuaille Road, Bangalow, for low density residential subdivision and the remainder of the site to remain as currently zoned Rural 1(a) and 1(b1).

The subject site was investigated in the Bangalow Settlement Strategy (BSS) 2003 and was described as Areas 1, 2 & 3 (Appendix No.1). The 2003 BSS recommended:

Area 1.

“Area 1 is not suitable for residential development due to its high visibility (it is located on a ridgeline) and steep slopes. The prospect of an elevated lookout and park to create a community focus is to be explored, such as through a Section 94 Plan.

Council may have to negotiate an outcome with the landowner to secure a public benefit. Alternatively the land may be left vacant. At present estimated residential lot yield is nil”.

Area 2.

“Area 2 is not suitable for residential development due to its proximity to the highway, steep slopes and topography. There is no opportunity for subdivision in this Area. The Area would be best used to provide a vegetation buffer of native trees to screen the village from the highway.

Estimated residential lot yield is nil”

Area 3.

“Area 3 has very limited opportunities for residential development. The north-eastern part of Area 3 should be used as a buffer to screen the village from the highway, linking in with vegetation of Area 2 immediately to the north.

Any residential development should be contingent upon resolving the drainage issues along the railway, providing useable open space, and the establishment of a pedestrian crossing over the railway line connecting this area with the village. If there is no pedestrian access across the railway line

this area will be about 1000 metres walking distance via Rankin Drive and Granuaille Street to the village centre. This distance will induce car dependence that is counter to the community's vision for the village".

In 2007 Byron Council commissioned Parsons Brinckerhoff Australia Pty Ltd to carry out a Rezoning Assessment of Areas 1, 2 & 3. (Appendix No.4). Parsons Brinckerhoff report dated November 2007 was based on the submission listed in the Appendices under "*Rezoning Application comprising Land Capability Analysis Land use Options*" by Balanced Systems Planning Consultants, dated March 2007 (Appendix 5) 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.
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- **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.

The 2007 Parsons Brinckerhoff Australia Pty Ltd report acknowledged that Areas 1 and 2 were not identified in the BSS as suitable for residential purposes mainly due to high visibility, slope and vegetation. Area 3 was considered to be suitable for residential development as *the site is in close proximity to existing residential development and can be readily serviced (p.5).*

The Parsons Brinckerhoff Australia Pty Ltd report concluded that the new route for the Pacific Highway has reduced the concerns in the BSS regarding noise. The issues of slope and visual impacts can be addressed in greater detail at future time via a development Control Plan (DCP) and a development application that reflects the DCP requirements. Therefore, PB Aust. Recommended that Areas 2 and 3 be rezoned to low density residential, conservation and environmental management.

As illustrated on Appendix No.1, part of the subject site described as Area 2 and 3 is proposed to be rezoned Residential 2a (shown as R2 Low Density Residential) and the remaining land is to retain the current 1(a) General Rural and 1(b1) Agricultural Protection zone (shown as E3 Environmental Management and E2 Environmental Conservation) in the Byron Shire Council's Local Environmental Study, July 2008.

Council at its Meeting 14 August 2008 resolved in part, that:

“ In light of the detailed assessment of Areas 1,2 and 3, the rezoning of land for areas 2 and 3 is considered appropriate. Rezoning of Area 1 is recommended to be deferred pending negotiations with Council to determine the most feasible outcome in respect of the site being used for a public lookout. A slope stability and geotechnical study of these areas to confirm their suitability should also be undertaken for any proposal for rezoning.”

2. Explanation of Provisions.

This Planning Proposal seeks to amend the Byron Shire Local Environmental Plan 1988 by having Lot 100 in DP 1127017 and a portion of Lot 101 in DP 1127017 fronting Rankin Drive rezoned to Residential 2(a) (shown as R2 Low Density Residential) and the remaining land to remain Rural 1 (a) General Rural and 1 (b1)(shown as E3 Environmental Management and E2 Environmental Conservation) 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 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 2003 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 2003 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 **Byron Shire Local Environmental Study 2008** identified that the rezoning of land for areas 2 and 3 is considered appropriate. Rezoning of Area 1 has been recommended to be deferred pending negotiations with Council to determine the most feasible outcome in respect of the site being used for a public lookout. A slope stability and geotechnical study of these areas to confirm their suitability should also be undertaken for any proposal for rezoning.

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...*"In light of the detailed assessment of Areas 1,2 and 3, the rezoning of land for areas 2 and 3 is considered appropriate. Rezoning of Area 1 is recommended to be deferred pending negotiations with Council to determine the most feasible outcome in respect of the site being used for a public lookout. A slope stability and geotechnical study of these areas to confirm their suitability should also be undertaken for any proposal for rezoning."*

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 Areas 1,2 and 3 as follows:

The proposed use of the site, located in the vicinity of Granuaille Crescent and Rankin Drive on the northern outskirts of Bangalow, is low density residential development. The site is bounded by Rankin Drive with housing lots adjacent to the south-west. There are no buildings or structures on the site. The area included in this proposal is approximately 7.99 ha. The site is currently zoned mostly 1 (a) General Rural, 1 (b1) Agricultural Protection and 1(a) General Rural with hatching (clause 38) under Byron LEP 1988. There are two small slivers of land zoned 2(a) residential.

The applicant indicates that a theoretical maximum number of residential lots could be 40 to 60 dwellings. The proposal also includes the recommendation of some land to be dedicated as open space. The proposed zone requested by the applicant is part residential and part open space.

As detailed in the assessment, the major constraints that occur on the site include slope, flooding, drainage, noise, bushfire and visual impact. Additional information provided by the applicant indicates that the majority of the site has a slope of between 8 and 20%. Many of the less sloping sites are in close proximity to the riparian corridor and flood prone land. The applicant has argued that the visual aspect can be addressed through appropriate design measures. The requested drainage map has provided information sufficient to demonstrate the possible measures to cope with runoff from the site. The main issue remaining is the site's steep slopes, which contain strongly acidic and moderately erodible soils; therefore landslip issues are also associated with the site. Due to the landslip issue, it is recommended that not all of the land in the submission should be rezoned and further geotechnical studies/slope assessment would be required before the remainder of the land can be zoned for residential development. The areas at risk of landslip are also visually significant.

Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include drainage, water sensitive urban design, access, noise, etc.

Potential impacts 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.

Development of the site would be an extension of the existing residential precinct located along Rankin Drive, and thus is considered a suitable location for 'infill' residential development. On balance the proposed concept plan achieves a positive planning solution, by providing economic benefits to the land owners, provision of housing, community open space and facilities. However, the Bangalow Settlement Strategy did not identify Areas 1 and 2 as suitable for residential development, particularly due to visual amenity, steep slopes and noise associated with the Pacific Highway.

Council states that any residential development of Area 3 would be contingent upon resolving the drainage issues along the railway, and providing usable open space. The rezoning application shows that open space can be provided, but it is not essential to zone it for recreation. A detailed assessment of drainage was provided by the applicant and is considered sufficient for the rezoning.

With particular reference to Areas 1 and 2, subsequent to the release of the Bangalow Settlement Strategy, the Pacific Highway upgrade preferred route has been identified, and the associated negative noise impacts identified with Areas 1 and 2 are less prominent. The applicant has provided additional information addressing the noise and vibration issues. Further, the existing residential development, water storage facility and cleared nature of the ridgeline, in conjunction with the proposed development of Area 3, would appear to have reduced the visual sensitivity of site considerably. The information provided by the proponent shows that a portion of Area 1 and 2 could be developed without utilising the steepest slopes of the land, and could form a logical extension of the development of Area 3.

Even with the information and justifications provided by the proponent, it is not considered that the entire area identified by the applicant is appropriate for residential development as further detailed slope stability/geotechnical assessment would be required to confirm site suitability before rezoning of the additional areas could occur. The assessment would specifically relate to a geotechnical and slope stability study to confirm that the site is suitable for residential development, particularly in relation to on-site water storage.

Comprehensive design controls, either as a site specific DCP or at the Development Application stage, would need to be prepared for the site,

should the rezoning of the land identified for residential land proceed, to ensure that any development impacts related to aesthetics, drainage, and slope are minimised. Also the north eastern portion of Area 2 is a bushfire threat area and appropriate controls will apply.

The Settlement Strategy for Area 1 states that “Council may have to negotiate an outcome with the landowner to secure a public benefit. Alternatively the land may be left vacant.” In a letter dated 29 June 2007, the proponent has proposed the following outcome to secure a public benefit as envisaged within the Settlement Strategy:

- *“Dedication of the land adjacent to the water tower for the purposes of public lookout together with linking open space and walkways*
- *Voluntary contribution per allotment for the proposed Bangalow swimming pool.”*

In light of the above, the rezoning of land for Area 3 and Area 2 is considered appropriate. Re-zoning of Area 1 should be deferred pending negotiations with Council to determine the most feasible outcome in respect of the site being used for a public lookout. A slope stability and geotechnical study of these areas to confirm their suitability should also be undertaken for the rezoning as detailed above.

Recommendation

It is recommended to zone Area 2 and Area 3 (part of Lot 101 DP 1127017) Granuaille Crescent / Rankin Drive, Bangalow R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management as shown on Figure 3 in Appendix K. It is not recommended to alter the zone for Area 1 from Rural.

Source: BSLES pp 183 – 185.

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 Areas 1, 2 and 3 that concluded:

Development of the site would be an extension of the existing residential precinct located along Rankin Drive, and thus is considered a suitable location for ‘infill’ residential development. On balance the proposed concept plan achieves a positive planning solution, by providing economic benefits to the land owners, provision of housing, community open space and facilities. However, the Bangalow Settlement Strategy has not identified Areas 1 and 2 as suitable for residential development, in regards to visual amenity, steep slopes and noise associated with the Pacific Highway.

Council states that any residential development of Area 3 would be contingent upon resolving the drainage issues along the railway, and providing usable open space. The rezoning application shows that open space can be provided, but it is not essential to zone it for recreation. A detailed assessment of drainage was provided by the applicant and is considered sufficient for the rezoning.

With particular reference to Areas 1 and 2, subsequent to the release of the Bangalow Settlement Strategy, the Pacific Highway upgrade preferred route has been identified, and the associated negative noise impacts identified with Areas 1 and 2 are less prominent. Additional to this the applicant has provided additional information which has addressed these issues. Further, the existing residential development, water storage facility and cleared nature of the ridgeline, in conjunction with the proposed development of Area 3, would appear to have reduced the visual sensitivity of site considerably. The information provided by the proponent shows that a portion of Area 1 and 2 could be developed without utilising the highly sloping portion of the land, which could form a logical extension of the development of Area 3. Even with this information, it is not considered that the entire area identified by the applicant is appropriate for residential development as further detailed slope stability/geotechnical assessment would be required to confirm site suitability before rezoning of the additional areas could occur. The assessment would specifically relate to a geotechnical and slope stability study to confirm that the site is suitable for residential development, particularly in relation to on-site water storage.

Comprehensive design controls, either as a site specific DCP or at the Development Application stage, would need to be prepared for the site, should the rezoning of the land identified for residential land proceed, to ensure that any visual, drainage, slope etc impacts from development is minimised. Also the north eastern portion of Area 2 is a bushfire threat area and appropriate controls will need to be employed.

The Settlement Strategy, for Area 1, states that “Council may have to negotiate an outcome with the landowner to secure a public benefit. Alternatively the land may be left vacant.” In a letter dated 29 June

2007 the proponent has proposed the following outcome to secure a public benefit as envisaged within the Settlement Strategy:

- *“Dedication of the land adjacent to the water tower for the purposes of public lookout together with linking open space and walkways*
- *Voluntary contribution per allotment for the proposed Bangalow swimming pool.”*

In light of the above the rezoning of land for Area 3 and Area 2 is considered appropriate. In relation to Area 1 this should be deferred pending negotiations with Council to determine the most feasible outcome in respect of the site being used for a public lookout. A slope stability and geotechnical study of these areas to confirm their suitability should also be undertaken for the rezoning as detailed above.

Recommendation

It is recommended to zone Area 2 and Area 3 (part of Lot 101 DP 1127017) Granuaille Crescent / Rankin Drive, Bangalow R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management as shown on Figure 3 in Appendix K of the LES. It is not recommended to alter the zone for Area 1 from Rural.

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 parts of the subject land be rezoned for residential development.

An application under the Gateway process 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.

Area's 2 & 3 are in close proximity to existing residential development and can readily serviced as the rezoning of land for residential development will provide additional dwelling sites for the Shires growing population thereby adding to the supply of land.

Additional residential land will assist in keeping the price of land in Bangalow at a more affordable cost. A limited supply of residential land in a town with a high demand leads to escalating costs and both existing residents and those wishing to reside in Bangalow are priced out of the market.

In addition to supply, the provision of more homes will provide job opportunities in the Shire.

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 Byron Shire Local Environmental Study (LES) 2008 recommended that parts of the subject land be rezoned for low density 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.

This planning proposal is consistent with the FNCRS as low density residential development reinforces and promotes increased housing choice in the Region.

The subject site was 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 Shire.

Bangalow is one of a number of Villages listed in the Far North Coast Regional Strategy. The Strategy reinforces and promotes increased housing choice by directing future urban growth to appropriate locations across the Region.

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

The planning proposal is consistent with the Byron Shire Local Environmental Study (LES) 2008 that was prepared to assess in part the Bangalow Settlement Strategy 2003 as has been discussed above.

The site is easily accessed from Rankin Drive, 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 a suitable site to accommodate low density living.

The provision of future dwellings will provide job opportunities during construction and will bring additional revenue into the local businesses and local 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 priorities and expectations. In doing this, the planning process to follow will consider the issues and pressures that may affect the community and the level of resources that will realistically be available to achieve its future 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 additional density housing will go some of the way to ensuring Bangalow residents have a choice of residential allotments.

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 Traffic Impact Assessment prepared by Greg Alderson and Associates Pty Ltd dated 29 March 2007 is annexed to the "Rezoning Application comprising Land Capability Analysis Land use Options" by Balanced

Systems Planning Consultants, dated March 2007.

The Alderson traffic report has been based on the RTA's "*Guide to Traffic Generating Developments*" version 2.2 and Council's DC P's and Austroads recommendations.

Based on a potential for 39 dwellings, the Alderson report concluded that sight distances were satisfactory in Rankin Drive. The intersection of Granuaille Road and Granuaille Street may need to be upgraded. The Alderson report was based on the rezoning of each area 1, 2 and 3. This planning proposal is for a lesser development area and therefore the calculations by Alderson are beyond what the future development may generate as there will be less development potential. Traffic will be addressed in a future DCP and development application for the site.

The site is within acceptable limits for walking and cycling.

SEPP 44: Koala Habitat

The ecological assessment of the site by Landmark Services Pty Ltd is included as an annexure in the "Rezoning Application comprising Land Capability Analysis Land use Options" by Balanced Systems Planning Consultants, dated March 2007.

The assessment found that development of the site would have no significant impact on threatened species of flora and or fauna. Landmark Services concluded that no further consideration of ecology is necessary, subject to compliance with a number of development recommendations contained in the assessment.

No Koala food trees are present and a SEPP 44 assessment is not required.

The assessment recommended that the bank of Byron Creek be protected for a width of 20 metres as a riparian vegetation area with any future clearing to be done by hand. There is a small area of Typha wetlands adjacent to the railway line that needs to be protected by a 10 metre revegetated strip on either side of an existing drainage line.

SEPP 55: Remediation of Land

A SEPP 5) preliminary investigation for potential site contamination was undertaken by Balanced Systems Planning Consultants, dated March 2007. The preliminary investigation confirmed that there was negligible risk of contamination within the site and that no further investigation, including soil sampling, is warranted.

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 4 of this Planning Proposal.

The Parsons Brinkerhoff Australia Pty Ltd *Rezoning Assessment* pages 13 – 15 (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 14. Wetlands or fisheries habitats.

There is a future riparian buffer zone to protect creek frontage and drainage line connections that adjoin the site. This buffer land will be more accurately determined when a DCP and development application is prepared for all of the subject land.

- Clause 17. Extractive materials.

There are no known mineral deposits on the site. A future extraction operation is not considered appropriate in the location.

- Clause 29. Natural areas and water catchments.

Existing vegetation that has ecological value will be retained and regeneration will be encouraged where possible in a future DCP. Any riparian areas along the creek will be zoned appropriately in the future Shire LEP.

- 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 42 – 43 Housing.

Clause 42 (1) *A draft local environmental plan to permit dwellings in urban areas should incorporate provisions that:*

- (a) allow the alteration or addition of a dwelling so as to create 2 dwellings in either attached or detached form,*
 - (b) allow a wide range of housing types and densities,*
 - (c) separate residential development from other incompatible development, including agricultural activity on adjoining land,*
 - (d) require that development for residential purposes should not take place until the council is satisfied that the land on which any dwellings are to be erected is adequately serviced with water and sewage disposal facilities,*
 - (e) retain existing provisions to enable a dwelling to be erected on an existing allotment, and*
 - (f) permit the use of manufactured home estates for permanent occupation.*
- (2) A draft local environmental plan that will permit dwellings to be erected in urban areas should not:*
- (a) require development consent for a dwelling-house in a residential zone, except where there are special environmental or hazard considerations, or*
 - (b) specify a minimum allotment size for residential zones.*

Clause 43 Residential development

- (1) The council shall not grant consent to development for residential purposes unless:*
- (a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,*
 - (b) it is satisfied that the proposed road widths are not excessive for the function of the road,*
 - (c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of*

land have been met,

(d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and

(e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.

The proposed plan is to provide for a range of housing types and density.

- 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 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 NSW Department of Planning, “*Far North Coast Region Residential Submarket Analysis*” dated August 2008 has determined that the following house types are required:

“The population of Byron Shire is expected to experience growth of about 10,800 people over the 2006 – 2031 period (approx 34% growth). The population is aging significantly with people in the 54-74 and 75+ age groups more than doubling over the 2006-2031 period. All other age groups are expected to remain stable.

There will be a need for housing for seniors and lifestylers as the population ages the housing submarket is mainly in the top end of the market as housing prices and migratory patterns suggest that this market is popular with wealthier retirees. This includes 1 bedroom, single storey, small lot housing options. Likewise, given that other age group are expected to remain constant, consideration needs to be given to more affordable housing choices”.

- **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 Far North Coast Regional Strategy identifies the site as a suitable area for urban development. The site is easily accessible from existing road infrastructure and is also within walking distance of public transport and facilities. Further traffic assessment should be undertaken at the development application stage.

- **4.3 Flood Prone Land**

Flood prone areas have been suitably identified in the submission and specific drainage requirements can be considered at the development application stage. It is proposed to consider the area for urban development based on the flood study included in the proposal. Any areas that are identified as flood prone are not proposed for urban use.

- **4.4 Planning for Bushfire Protection**

The north-eastern portion of the site is considered bushfire prone. Appropriate Asset Protection Zones (APZs) must be provided by the proponent at the DA stage. Specific APZs incorporating an Inner Protection Area and Outer Protection Area must be identified by the proponent in a Bushfire Assessment Report. No development is proposed in the bush fire prone area.

- **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

- **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 included in the Bangalow Settlement Strategy and therefore is excluded from regionally significant farmland.

- **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 for low 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 March 2007.

If however the land affected by the planning proposal contains ecological habitat of any value 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 26 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. Council is considering the construction of a second reservoir next to the existing reservoir located on land adjoining Area 1.
 - iii. **Stormwater**
Due to the slope of land Area’s 2 and 3 stormwater is quickly drained. Stormwater management can be undertaken in accordance with Water Sensitive Urban D, using on – site detention and filtration of stormwater.

The recommendations of the Alderson report include:

- Gross pollutant traps
- Sediment traps, and
- Individual rainwater tanks for reuse of roof water from dwellings.

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 March 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 29 March 2007.

The traffic assessment concluded that traffic is not an issue with regard the rezoning of the site. Works to be carried out include upgrading of the intersection of Granuaille street from the intersection with Granuaille road to the propose intersection with Corlis Crescent plus the construction of a channelized intersection of Granuaille road and Granuaille street to a CHR Rural Intersection in accordance with RTA and Council requirements.

- **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.

- **Noise Impact Assessment** by Greg Alderson and Associates Pty Ltd. Dated 24 March 2007.

The proposed new Pacific highway will result in the highway being located more than 500 metres to the east of the site. In the meantime the Noise Impact Assessment has recommended

construction methods to ameliorate noise impact from the Highway in accordance with AS2107.

The site adjoins the railway line from Casino to Murwillumbah. Should the rail line be re-opened a further noise report will be needed to consider the impact of noise and vibration guidelines prepared by Railcorp for development near rail lines.

- **Preliminary Flood and Stormwater Assessment** by Greg Alderson and Associates Pty Ltd. Dated 8 March 2007.

There is no part of the site proposed for rezoning to residential that is affected by flood waters. A small area at the lowest part of area 3 adjoining the rail line that may be affected by flooding. There will be no development below RL 45.9mAHd.

- **Rezoning Application comprising Land Capability Analysis Land use Options** by Balanced Systems Planning Consultants, dated March 2007.
- **Rezoning Assessment** by Parsons Brinkerhoff dated November 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 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:

- a) *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.*
- b) *All future development should be subject to Shire-wide development controls that require minimal impact on the natural water cycle.*
- c) *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?

This planning proposal has relied upon the social issues assessment contained in the Balanced Systems Planning Consultants, dated March 2007.

The Parsons Brinkerhoff Rezoning Assessment dated November 2007 assessed the rezoning submission and concluded that there would be no adverse impacts from the proposed rezoning of land in Areas 2 and 3.

At the development application stage Council can request a more detailed social impact assessment.

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

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