

Area 6 Bangalow

Planning Proposal relating to land identified within the Bangalow Settlement Strategy as Area 6

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Ref: 441306
Date: January 2010
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Introduction

This Planning Proposal has been prepared in relation to land known as Lot 1 DP 127485, located at Bangalow on the Far North Coast of NSW. As detailed further below, the land has been examined for its potential for urban development as part of Byron Shire Council's Bangalow Settlement Strategy 2003.



Illustration 1. The Site

The Strategy nominates the northern part of the land as a future urban growth area for Bangalow.

Rezoning of the site has also been considered as part of Byron Shire Council's Shire-wide Local Environmental Plan. While work toward the preparation of that Plan continues, Council has more recently resolved to proceed with the rezoning of sites nominated in the Bangalow Strategy by way of a separate Gateway process, to avoid further delays associated with the Shire-wide LEP.

Part 1 Proposal Objective

To enable the future urban development of that part of Lot 1 DP 127485 that is currently zoned part 1(d) Investigation and part 1(aH) General Rural (Hatched), where above the 1 in 100 year flood inundation level, for low-density residential housing.

Part 2 Explanation of Provisions

Amend the Byron Local Environmental Plan 1988 Zoning Map in accordance with the proposed zoning map shown below. Land within Lot 1 DP 127485 currently zoned part 1(d) Investigation and part 1(aH) General Rural (Hatched), where above the 1 in 100 year flood inundation level, to be zoned 2(a) Residential (R2 Low Density Residential).

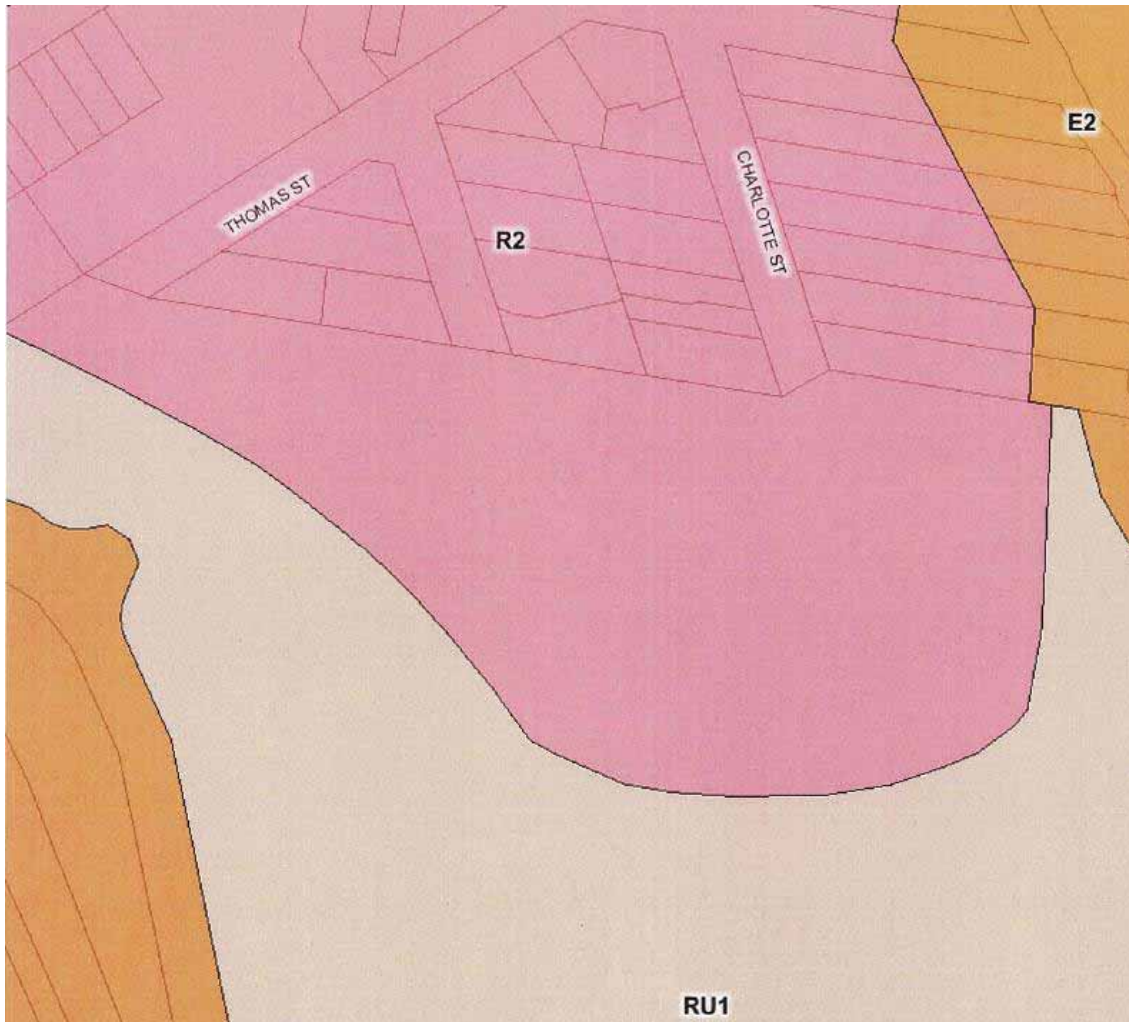


Illustration 2. Proposed Rezoning

Part 3 Justification

Section A - Need for the planning proposal

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

This Planning Proposal is a direct result of the Bangalow Settlement Strategy 2003. This strategy was prepared to meet the requirements of Clause 38 of the *North Coast Regional Environmental Plan*, which is now *State Environmental Planning Policy (North Coast Regional Environmental Plan)*. The strategy provides a framework for rezoning, servicing and the release of urban land within Byron Shire. It addresses issues and outcomes developed in consultation with the community, which will be used in planning and managing future settlement. It aims to set the parameters for future growth of urban areas within Bangalow in a responsible and sustainable manner.

In the strategy, the subject land is identified as Area 6 (of nine areas identified as potential future use areas for village expansion). In relation to Area 6, the Strategy identifies the key constraints as being flooding, access to Lismore Road, the loss of agricultural land and visual impacts.

The strategy makes the following recommendations regarding the future development of Area 6:

- *Area 6 is suitable for residential development on flood free land, subject to resolution of access and use of neighbouring rural land currently in the same ownership.*

The request for urban rezoning applies only to that part of the land above the 1 in 100 year flood inundation level. The location of this flood-free area at the northern extremity of the land will make it impossible to provide for a direct vehicular access to Lismore Road. Access will be provided from Thomas Street and Charlotte Street, which are in the existing residential community directly north of the site.

The neighbouring rural land in the same ownership (i.e. the residue of the land following rezoning) will generally fall into two parts – a northern part, directly adjoining the land proposed for rezoning, and a southern portion, separated by a tight bend in Byron Creek. The northern part is proposed to be used partly for the provision of public open space associated with the Byron Creek riparian area. The remainder of this northern residue could be split into two larger rural lots, each to be attached to a lot within the residential area, to provide for two lots that could be used for low scale food production, or other semi-rural purposes. Details of these proposals would be developed at DA stage.

The southern residue portion will be retained by the current owner, who intends to continue low scale cattle grazing. The presence of Byron Creek, and the northern residue area, will provide sufficient buffer area between this grazing land and the new residential lots to minimise noise or other potential land use conflicts.

- *A new road access to Lismore Road would protect the amenity of existing residents in the Thomas Street area. It would also facilitate traffic flow for trips to the western parts of Bangalow, to Lismore or to the Bangalow industrial area.*

Direct access from Lismore Road is not possible. Such access could only be located within flood prone land and it is considered that the filling of land to provide flood free access would result in increased flood levels elsewhere in the locality. In any case, the Roads and Traffic Authority has indicated that they would not support any additional intersections on the Lismore Road in this area.

Access can only be provided, therefore, from Thomas Street and Charlotte Street. Preliminary conceptual design indicates a potential yield in the order of 35-45 lots, which would generate somewhere in the order to 350-450 vehicles per day based on RTA published guidelines. Whilst this additional traffic will have some impact on existing residents in Thomas and Charlotte Streets, this additional load will be 'split' between the two streets and will therefore will remain relatively low in each street.

- *Development of Area 6 should be the catalyst for the provision of open space, such as community gardens and playing fields, walkways and environmental repair along Byron Creek.*

Since much of the site is below the 1% flood planning level and will not be built on, there will be a large amount of potential open space for various activities. This detail will be further explored at DA stage.

- *NSW Agriculture's land classification system indicates that the land is prime agricultural land. However due to the small land area involved and its proximity to the village centre, and the physical limit to expansion of the village at Byron Creek, development of this land to define the village would be an appropriate use of potential agricultural land. This issue needs to be resolved with NSW Agriculture and DIPNR.*

The proximity of the land to existing residents, with little or no opportunity for buffering, restricts the scope of agricultural pursuits on the site, given the potential for future land use conflicts. The presence of Byron Creek can provide a buffer between the southern residue land, which will remain rural with low scale cattle grazing, and the future development area. Using part of the northern residue area for semi-rural purposes could make some use of the agricultural potential of the land in a manner that minimises conflicts, given that uses would need to be, by virtue of available area, quite small in scale.

- *Estimated residential lot yield of 1(d) (Investigation Zone) land is approximately 45 lots. This may be reduced following detailed site analysis and assessment of visual impact and access.*

Very preliminary concept design confirms that the yield of around 45 lots should be achievable. This would, of course, be confirmed as part of the DA process following rezoning, based on detailed site and contextual analysis.

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

Amending the Byron Local Environmental Plan 1988 Zoning Map so that land within Lot 1 DP 127485, where above the 1 in 100 year flood inundation level, is zoned 2(a) Residential (R2 Low Density Residential) is the best and neatest way of utilising the land for village expansion.

3. *Is there a community benefit?*

The Bangalow Settlement Strategy 2003 was prepared to balance overall community benefit outcomes with the need to provide for sustainable expansion of the village population. The community benefit associated with the development lies in the provision of additional housing options / diversity in a manner that minimises environment, social and economic impacts.

It may also be possible, in this case, to provide for community uses (e.g. passive open space, community gardens) within the residue of the northern part of the land, which will retain its rural zoning.

Such community benefits would be explored at development application stage.

Further, rezoning of the site would provide a net community benefit as the rezoning will contribute to Council's housing targets as set by the Far North Coast Regional Strategy, in which this site is mapped as Proposed Future Urban Release.

Section B - Relationship to strategic planning framework

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

The applicable regional strategy is the Far North Coast Regional Strategy. This strategy consolidates and builds on previous planning work, including the Northern Rivers Regional Strategy and local council settlement strategies.

The strategy includes the subject site as a 'Proposed Future Urban Release Area'. Rezoning of the subject site is therefore consistent with the Far North Coast Regional Strategy.

5. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

As discussed above, the proposal is consistent with the *Bangalow Settlement Strategy 2003*.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Several State Environmental Planning Policies (SEPPs) would apply to future development on the site. These are identified and discussed below.

SEPP 44 Koala Habitat Protection

The subject land does not contain any koala food trees. It would not, therefore, be considered potential koala habitat as defined in this SEPP.

SEPP 55 Remediation of land

The risk of land contamination is low given the history of land uses on the site. The current landowner has a long history of association with the subject land, and has provided a statement outlining that, to the best of his knowledge, no chemicals have ever been used on the part of the site subject to rezoning.

SEPP Major Development

This SEPP consolidates criteria and identifies development, which are 'State Significant'.

The development of the site post rezoning would not be categorised within this SEPP as a project to which Part 3A of the Act applies, nor would it be categorised as Regional Development.

SEPP Rural Lands

This SEPP provides for the protection of agricultural land that is of State or regional significance. The site proposed to be rezoned is mapped as regionally significant farmland. The SEPP contains specific provisions that relate to the assessment of a development applications over rural land. It does not contain provisions for rezoning applications.

The SEPP contains the following rural planning principles:

- a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.*
- b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State.*
- c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development.*
- d) *in planning for rural lands, to balance the social, economic and environmental interests of the community.*
- e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land.*
- f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities.*
- g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.*
- h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proximity of the land to existing residents, with little or no opportunity for buffering, would limit the scope of agricultural pursuits on the site, given the potential for future land use conflicts. The presence of Byron Creek can provide a buffer between the southern residue land, which will remain rural with low scale cattle grazing, and the future development area. Using part of the northern residue area for semi-rural

purposes could make some use of the agricultural potential of the land in a manner that minimises conflicts, given that uses would need to be, by virtue of available area, quite small in scale.

7. Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Directions made under section 117 of the *Environmental Planning and Assessment Act 1979*, issued on 1 July 2009, which are relevant to the site, are identified and addressed in **Table 1**, below.

Table 1 Section 117 Directions

Direction No.	Objective	Consideration
No. 1.2 – Rural Zones	A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Department of Planning that the provisions of the planning proposal that are inconsistent are: (a) justified by a strategy which: (i) gives consideration to the objectives of this direction; (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) is approved by the Director-General of the Department of Planning.	This planning proposal does seek to rezone land that currently has a rural zoning to a residential zoning. However, this inconsistency is justifiable in accordance with 5(a). Both the <i>Far North Coast Regional Strategy</i> and the <i>Bangalow Settlement Strategy 2003</i> specifically identify the site as a potential future residential area. This potential has been confirmed by Council's Shire-wide Local Environmental Study (PB, 2008), prepared to support Council's proposed Shire-wide LEP. The LES assesses the site for its suitability for urban development and concludes that a residential zoning is appropriate.
No. 1.5 – Rural Lands	A planning proposal must be consistent with the Rural Planning Principles listed in <i>SEPP Rural Lands</i>. A planning may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Department of Planning that the provisions of the planning proposal that are inconsistent are: (a) justified by a strategy which: (i) gives consideration to the objectives of this direction; (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) is approved by the Director-General of the Department of Planning.	See above. The proposal is consistent with the Rural Planning Principles and Rural Subdivision Principles listed in <i>SEPP Rural Lands</i>.

Direction No.	Objective	Consideration
No.3.1 – Residential Zones	To ensure the orderly and economic use or development of residential land. This direction provides that residential zones should contain a range of provisions ensuring appropriate servicing, appropriate density controls, the provision of housing choice etc.	The existing 2(a) zone within the Byron LEP provides for these things and the rezoning of the site to 2(a) will be consistent with the requirements of this direction. Similarly, the provisions of the proposed Byron Shire-wide LEP, and the proposed R2 Low Density Residential zone, would also provide appropriate provisions.
Direction No.3.4 – Integrating Land Use and Transport	To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: ▪ improving access to housing, jobs and services by walking, cycling and public transport ▪ increasing the choice of available transport and reducing dependence on cars ▪ reducing travel demand including the number of trips generated by development and the distances travelled, especially by car ▪ supporting the efficient and viable operation of public transport services ▪ providing for the efficient movement of freight.	The subject site is located on the urban fringe of Bangalow and the site adjoins existing residential areas. The existing residential area is serviced by public transport and contains a pedestrian / cycleway connection to the village centre of Bangalow. The proposed development will allow for an extension to these services.
No. 4.3 – Flood Prone Land	To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual, 2005. To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	A detailed flood study has been prepared for the subject site (see Appendix B). The 1% AEP flood level, as identified within this flood study, has been adopted as the appropriate flood planning level for the development of the site. This flood planning level forms the boundary of the land to be rezoned.
No. 4.4 – Planning for Bushfire Protection	To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. To encourage sound management of bush fire prone areas.	The subject site is not mapped as bushfire prone land.
No. 5.1 – Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	The Strategy includes the subject site as a 'Proposed Future Urban Release Area'. Rezoning of the subject site is therefore consistent with the Far North Coast Regional Strategy.

Direction No.	Objective	Consideration
No. 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast	To ensure that the best agricultural land will be available for current and future generations to grow food and fibre. To provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning. To reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.	The site is identified as being regionally significant farmland. However, the direction does not apply as the site has been identified for urban settlement in the <i>Bangalow Village Settlement Strategy</i>, which is a strategy approved by the Director General of Planning under Clause 20 of SEPP (North Coast REP).

Section C - Environmental, social and economic impact

8. *Is there 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?*

An ecological assessment of the site has been conducted. The results of this assessment are detailed in **Appendix A**.

The assessment examined all of the land and concludes that, while there are some important riparian areas within the residue, the land proposed to be rezoned does not contain any areas of conservation value.

This view is supported in the Byron Shire Local Environmental Study (PB, 2008). In relation to this site, the LES notes that flooding and drainage are the main constraints. It states: “*Other environmental concerns associated with the site can be addressed at the DA stage*”. This would indicate that ecology does not present a significant constraint to development.

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

Flooding

Byron Creek is located along the southern, western and eastern boundaries of the site. The site is subject to flooding from this creek, with previous anecdotal flood information providing the rationale for the zone boundary between the 1(d) and 1(a) parts of the site.

A detailed flood study has been undertaken by MRG Water Consulting Pty Ltd to assess level of flood risk on the site. This flood study is contained in **Appendix B**.

The flood study has established a 1 in 100 year ARI ‘Flood Planning Level’ (FPL) relevant to the site, based on detailed modelling of the flood behaviour of Byron Creek. This FPL is generally consistent with the previous understanding of flood levels on the site, and aligns relatively closely with the current 1(a) / 1(d) zone boundary.

The Byron LES (PB, 2008) concludes that the MRG Water Consulting flood study “*is considered sufficient for this stage of the process and it is suggested that this could be the basis for the identification of the boundary of the residential zone*”.

Contamination

The subject land has historically been used for cattle grazing. The land has been in the Daly family for at least 80 years. The current land owner grew up on the property, and has managed it for some 37 years.

He has provided an affidavit to the effect that, to the best of his knowledge, no chemicals have previously been used on the part of the site proposed for development. A copy of this statement is contained in **Appendix C**. Given this detailed site knowledge, there is a very low likelihood of any soil contamination being present on the site.

Bushfire

Bushfire prone lands mapping provided by Byron Shire Council indicates that the site is not mapped as bushfire prone land. The requirements of the NSW Rural Fire Service "Planning for Bushfire Protection" (Planning NSW 2001) therefore do not apply to the proposal.

An area of category two bushfire prone land and associated buffer is located to the south of the subject site, but this does not protrude onto the subject property.

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

A social impact assessment was previously carried out for the proposed development. A copy of this assessment is included in **Appendix D**.

An increase of between 35 and 45 lots (i.e. 35– 45 households) does not constitute significant change in terms of a social impact on the village of Bangalow. It represents between a 4.8 and 6.4 percent increase in population (based on the population figure for Bangalow village of 1250 people (Book of Bangalow, Aug 2006), and based on 2 people per household (based on the Byron Shire Council average according to the ABS).

The population increase could contribute to the economic strengthening of the Bangalow Village, increased usage of the public transport network, and a more coherent and physically complete neighbourhood.

The increase in population, and associated increase in demand for current services and amenities may be a catalyst for change with regard to improving the public service network of schools, hospitals, and community facilities in the longer term.

The Byron Shire LES (PB, 2008) notes that a more detailed SIA would be required at DA stage. It also notes that: *"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"*.

Section D - State and Commonwealth interests

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

The proposed rezoning is likely to result in an increase of between 35 and 40 lots (i.e. 35 – 45 households) and therefore will not result in a significant increase in demand for infrastructure. The existing provision of infrastructure servicing Bangalow is generally capable of catering for the additional population. Where there are potential shortfalls in existing services, such as education or health, it is anticipated that the additional population could contribute to the ability to provide for increases in services.

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

This section of the planning proposal will be completed following consultation with the State and Commonwealth Public Authorities identified in the gateway determination. This section will summarise

any issues raised by public authorities not already dealt with in the planning proposal, and will address issues as required.

Part 4 Community Consultation

As discussed in **Section 3.3.3** of this report, consultation has been carried out in accordance with Byron Shire Council's *Draft Social Impact Assessment Development Control Plan* and *Draft Social Impact Assessment Policy*, as part of conducting a social impact assessment for the proposed development.

In accordance with *A Guide to Preparing Local Environmental Plans* (Department of Planning, 2009) the gateway determination will specify the community consultation that must be undertaken on the planning proposal.

Conclusion and Recommendations

This proposal to extend the village of Bangalow to include the northern part of Lot 1 DP 127485 is a direct result of the Bangalow Settlement Strategy 2003. The proposal is supported by the Far North Coast Regional Strategy, which classifies the subject land as a proposed future urban release area, and is consistent with all Section 117 directions.

An analysis of potential environmental constraints, including flooding, contamination, bushfire and ecology has been carried out. The results of this analysis have been used to determine a suitable boundary to the proposed village expansion area.

The proposal objective, to enable the future urban development of that part of Lot 1 DP 127485 that is currently zoned 1(d) Investigation, where above the 1 in 100 year flood inundation level, for low-density residential housing is therefore considered suitable. It is recommended that the Byron Local Environmental Plan 1988 Zoning Map be amended so that, where above the 1 in 100 year inundation level, land within Lot 1 DP 127485 is zoned 2(a) Residential (R2 Low Density Residential).

This conclusion has been supported by the Local Environmental Study undertaken to support the Byron Shire Council's Shire-wide Local Environmental Plan (PB, 2008).

That LES considered the proposed residential zoning of the land and provides the following recommendation:

"It is recommended to zone Lot 1 DP 127485 Lismore Road, Bangalow to R2 Low Density Residential, RU1 Primary Production or RU2 Rural Landscape and E2 Environmental Conservation"

Rezoning of the area of the site above the 1 in 100 year floodline is all that is required as part of this Gateway Process.

Rob van Iersel

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