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Planning Proposal

For

**Lot 11 in DP 1039847 & Lot 1 in DP 1143630 No.
74 Charltons Road, Federal**

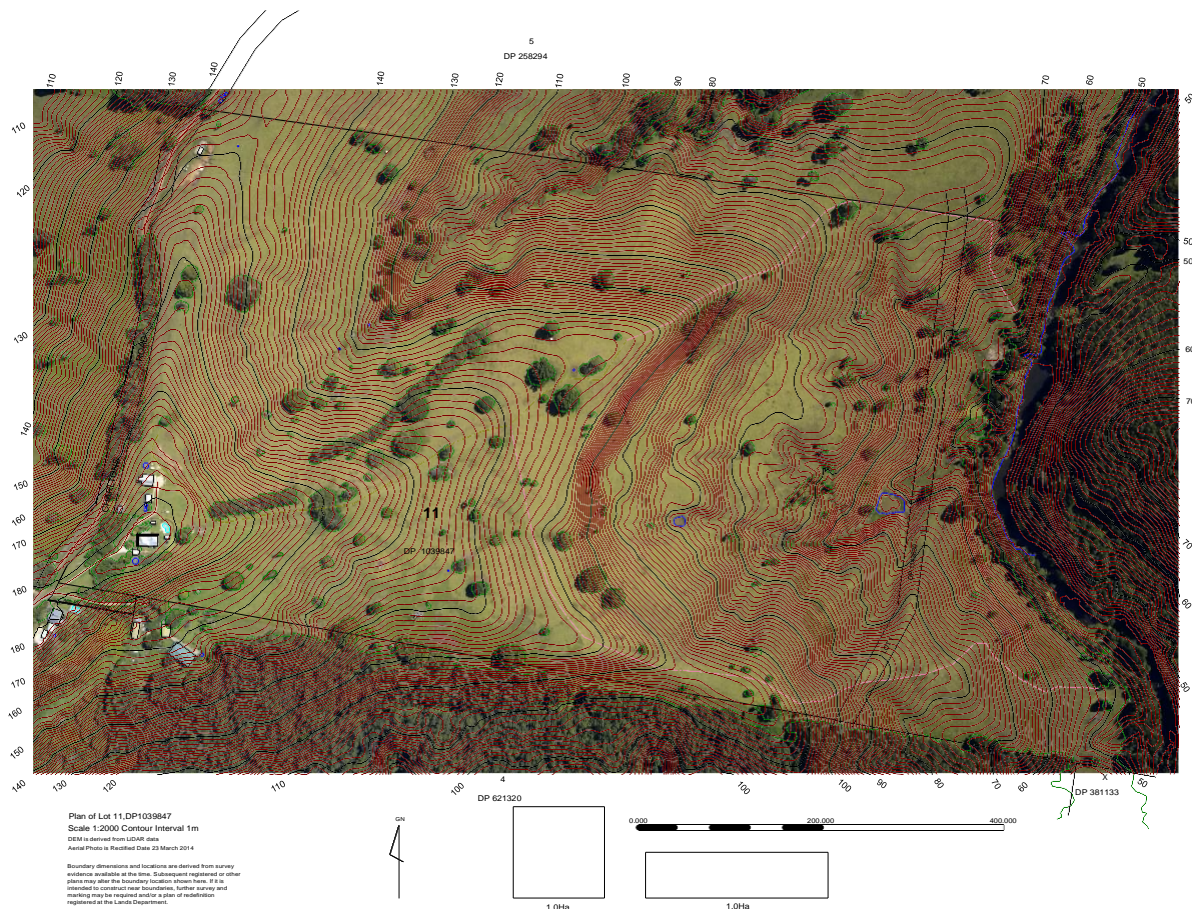


Table of Contents

Table of Contents	2
Background and Introduction	3
The Site	6
Objectives and Intended Outcomes of Proposed LEP	9
Explanation of Provisions	10
Justification	10
A. Need for planning proposal	10
B. Relationship to strategic planning Framework	14
C. Environmental, social and economic Impacts	23
D. State and Commonwealth Interests	24
E. Community Consultation	24
Appendix	25
Appendix 1 BSC Minutes	25
Appendix 2 NSW DEPT of Planning letter	27
Appendix 3 BSC letter	29
Appendix 4 Clause 4.2B/ LEP 2014	31
Appendix 5 DCP 2014 chapter D2	32
Appendix 6 Map 4 Regionally Significant Farmland	40
Appendix 7 SEPP checklist	41
Appendix 8 Section 117 Directions	42
Appendix 9 correspondence from Dr. Melissa Van Zwieten, Melaleuca Group	44
Appendix 10 Correspondence Paul De Fina	45
Appendix 11 Council Report Dated 19 April 2018	47

Background and Introduction

In 1998 the subject site, Lot 11 in DP 1039847 No. 74 Charltons Road, Federal was considered suitable for a *Proposed Rural Landsharing (Multiple Occupancies) Communities* development site in the ***Byron Rural Settlement Strategy, 1998***.

In 1998 for reasons unknown, the then owners requested that the subject site be excluded from Map 2 of the ***Byron Rural Settlement Strategy*** as potentially suitable for a *Rural Landsharing (Multiple Occupancy) Community*.

Council acted on that request in 2000 and excluded the site from the Byron Rural Settlement Strategy Map 2.

This proposal seeks to amend *Byron Local Environmental Plan 2014*, so as to include Lot 11 DP 1039847, being 74 Charlton's Road, Federal NSW, on the *Multiple Occupancy and Community Title Map for Multiple Occupancy (MO)*.

The Byron Council had considered this amendment at its Meeting held September 19, 2013 when it considered amending the Draft Byron LEP 2012 in relation to the site and this specific planning proposal request and resolved (see appendix 1);

Council Resolved 13-511

16. *Insert Lot 6 DP 261219(226 Fowlers Lane, Possum Creek) Lot 2 DP 600576(111 Fowlers Lane, Possum Creek) Lot 3 DP 786274 (Settlement Road), Lot 12 DP 755712 (240 Charlton's Road), Lot 3 DP 732638 (Englises Road), Lot 11 DP 1039847 (74 Charlton's Road) and Lot 16 DP 255603 (coopers South Lane) on the draft LEP Multiple Occupancy and Community Title map as 'Multiple Occupancy'.*

In correspondence to the owner, the Department of Planning and Environment (reference 09/02466) acknowledged in paragraph 5, the subject property was listed in Council Minutes dated 19th September 2013 for inclusion on the *Multiple Occupancy and Community Title Map* in the Draft LEP submitted to Minister. However, it was removed from the Byron LEP 2014 prior to the Minister making the Plan. This action was because the subject site had not been placed on exhibition for "community consultation." The Department of Planning and Environment, in the same correspondence recommended the Gateway Process for planning proposals as the appropriate way to include the site in the Multiple Occupancy Maps (See appendix 2).

Byron Shire Council by letter dated 21st July 2014, indicated that it would support the preparation of a planning proposal consistent with what was supported by council in the draft LEP resolution 13- 511 (See appendix 3).

The provisions of Clause 4.2B of Byron Local Environmental Plan 2014 will be applied to any future development.

Multiple Occupancy enables a group of people to collectively own a single allotment of land and use it as their principal place of residence. Common ownership of land is established through tenants in common trust membership, co –operative shareholding, company title or partnership.

The site is a rural property with a total area of 57.998 hectares, which includes an unformed road reserve, which passes through the property (this road reserve, Lot 1 in DP1143630, has been purchased by the owner and is included in the site).

The site is within walking distance to Federal Village, being less than 1km from the Village Store and Post Office. This Planning Proposal is to allow development consent to be sought for a Multiple Occupancy development on the site. When developed, it is intended the land be used for “rural living” and “environmental conservation” and “agricultural purposes” consistent with the *Best Practice Guidelines and Performance Standards of the Byron Rural Settlement Strategy (BRSS) 1998*.

It is envisaged that an integrated approach to the above activities will be undertaken to create rural multiple occupancy opportunities within the site. This approach will be coupled with ongoing and significant environmental repair and remediation programs to enhance the environmental and natural capital of the site. This will include the ongoing conservation and expansion of existing Wilsons River riparian zone and wildlife corridors that are present on the site.

The areas of land that are suitable for agricultural activity and food production will be maintained and managed to avoid fragmentation and to achieve efficiencies of management.

The site adjoins two properties that are mapped on the *Byron Multiple Occupancy Maps* and also adjoins an existing converted Multiple Occupancy development (Keys Gardens) now functioning as a Community Title Settlement (see Map 3).

The site is suitable for further rural settlement given the locality is close to Federal Village and in close vicinity of similar settlements or proposed settlements.

The site has a predominant northern aspect, with large areas of flat land along Charltons Road and future dwellings and a service access road can be provided for on two or three spurs that exist on site and that are cleared of native trees.

The overall theme of the MO will be; the identification and protection of natural resources, the implementation of programs to further regenerate and revegetate areas requiring repair, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land.

Riparian Zone Revegetation on the Wilson River at Federal NSW



Above photo of flood event in 2004, pre fencing and planting in 2006 and now in 2014 below



The Site

The site is located on the eastern side of Charltons Road approximately, 100 metres after the bitumen ends. The site has an area of 57.98 hectares and offers expansive views to the east and north of the site.

Map 1 shows the site adjoining and nearby lots included in the Multiple Occupancy and Community Title map outlined in green and adjoining Keys Gardens Community Title Multiple Occupancy.

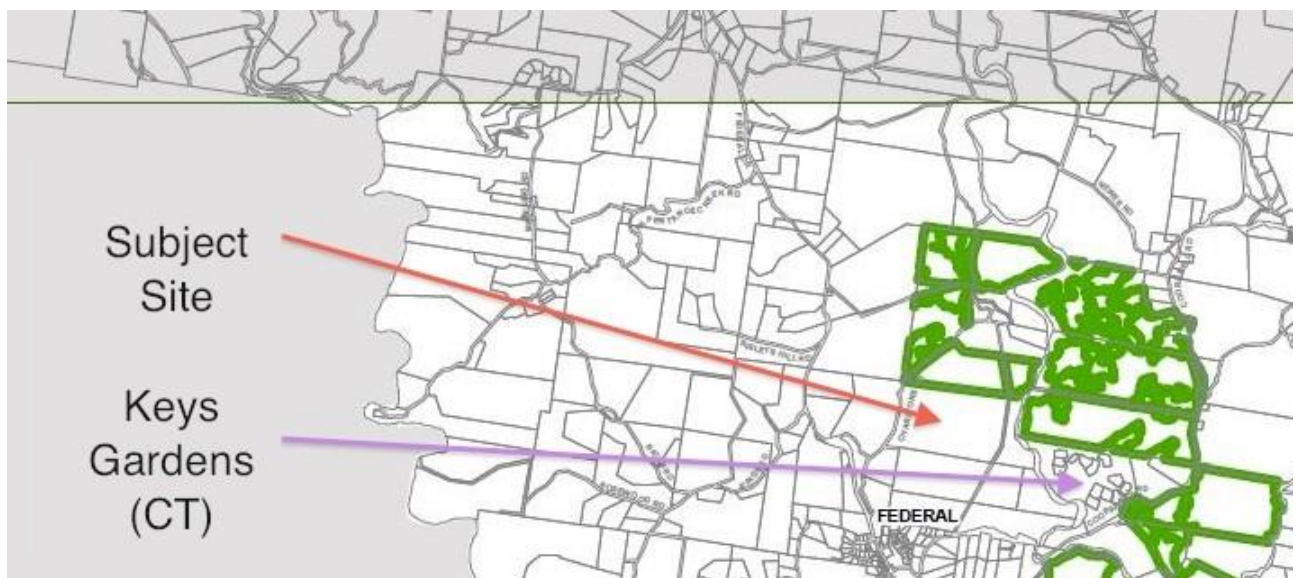
The site is located on the following Locality Map (see Map 2) and Zoning Map (see Map 3).



Byron Local Environmental Plan 2014

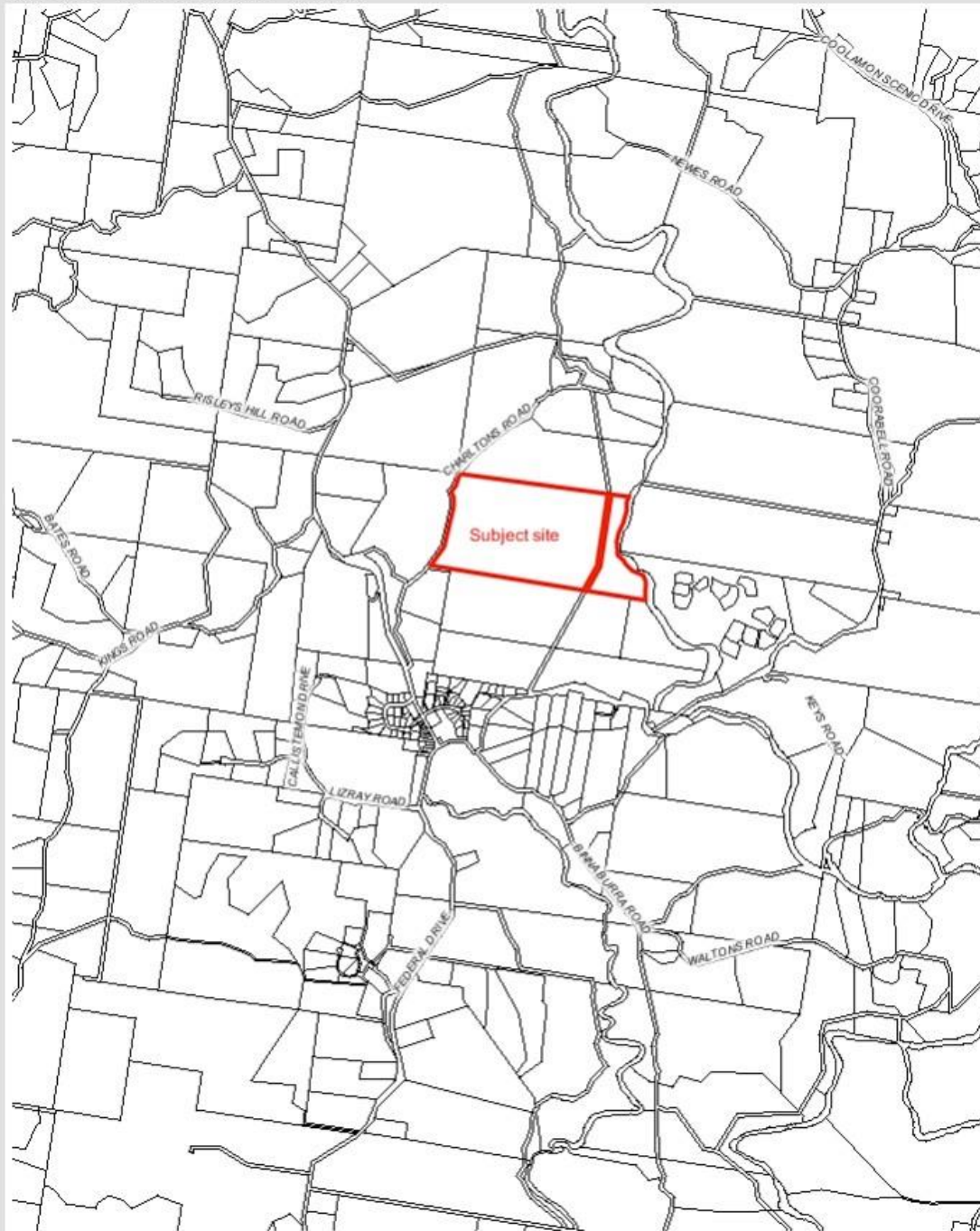
Multiple Occupancy and Community Title Map - Sheet MOC_003

Occupancy Type
 community title CT
 multiple occupancy

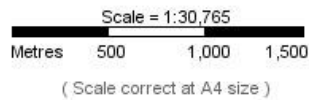


Map 1 – Multiple Occupancy and Community Title map (Source: Byron Local Environmental Plan 2014 and “Byron Multiple Occupancy Maps, No. 1350 COM- MOC- 003- 20140314)

**Lot 11 DP 1039847, 74 Charltons Road, Federal
Byron LEP 2014 Land Zoning**



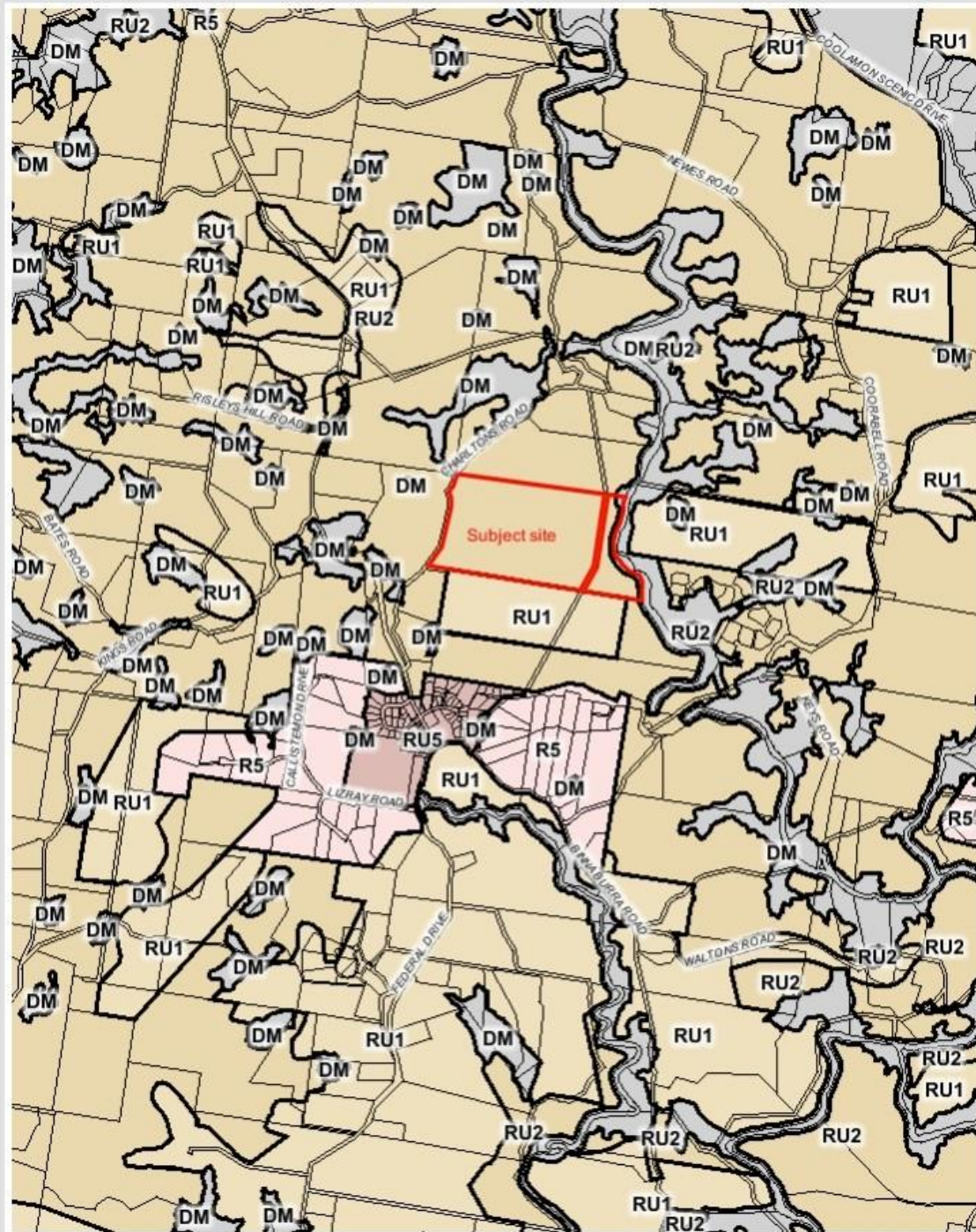
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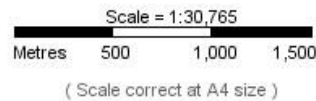
18/11/2014

Map 2 – Locality map

Lot 11 DP 1039847, 74 Charltons Road, Federal
Byron LEP 2014 Land Zoning



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18/11/2014

Map 3 – Land Zoning of the subject site under the Byron Bay LEP 2014

Objectives and Intended outcomes of Proposed LEP

Objective

The Objective of this Planning Proposal is to allow multiple rural dwellings (collectively known as a multiple occupancy) to be permissible with consent at 74 Charlton's Road, Federal.

Outcomes

The Outcomes of this Planning Proposal are summarised as follows:

1. Rural Housing opportunities will be created in a manner consistent with the *BRSS 1998 Best Practice Guidelines and Performance Standards*;
2. The settlement will be in a clustered style that aims to preserve the rural character and amenity of the site and locality and is consistent with an adjoining community title subdivision. This pattern style seeks to reduce the demands for utility services and infrastructure and enhance environmental outcomes;
3. Significant environmental enhancement will be undertaken and achieved in a manner consistent with the *BRSS 1998 Best Practice Guidelines and Performance Standards*, which will seek to extend and enlarge existing Riparian and wildlife corridors by the enhancement and addition of native vegetation;
4. Improved Biodiversity outcomes on the site;
5. The ongoing protection and further development of fauna and flora habitat;
6. The preservation of productive agricultural land consistent with the intent of the *Byron Sustainable Agricultural Strategy*;
7. Providing economic and social stimulus to the Village of Federal with increased opportunities for the supply of local goods and services from local shops, vendors and suppliers and maintaining the enrolment at schools and residents using buses and participating in local activities;
8. The extension and upgrading of the sealed section of Charltons Road to the site entry which benefits other users of Charltons Road and other potential multiple occupancy settlements further along Charltons Road, and the inclusion of a bike path within the road reserve from the site to facilitate safe and easy access to the village and public transport;
9. Increased housing and rural landsharing opportunities which includes shared resources, involvement and ownership in the environmental projects and outcomes and the capability to collectively produce and share food and crops, and;
10. Potential to apply for consent for rural community title subdivision.

Explanation of Provisions

The objective of this Planning Proposal will be achieved by Amending the *Byron Local Environmental Plan 2014 Multiple Occupancy and Community Title Map – Sheet MOC_003* to include 74 Charlton’s Road, Federal as ‘multiple occupancy.’

Justification

A. Need for the planning proposal

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

Yes. The subject site was considered suitable and mapped in the *Byron Rural Settlement Strategy, 1998* when originally exhibited as a site appropriately located for a *Rural Landsharing (Multiple Occupancy) Communities*. The lot was subsequently removed from the MO Mapping in 2000 following a request from the then landowner.

This proposal seeks to amend *Byron Local Environmental Plan 2014*, so as to include Lot 11 DP 1039847 & Lot 1 in DP 1143630, being 74 Charlton’s Road, Federal NSW, on *the Multiple Occupancy and Community Title map for Multiple Occupancy (MO)*.

The Byron Council had considered this amendment at its Meeting held September 19, 2013 when it considered amending the Draft Byron LEP 2012 in relation to the site and this specific planning proposal request and resolved (see appendix 1).

Council Resolved 13-511;

16. Insert Lot 6 DP 261219(226 Fowlers Lane, Possum Creek) Lot 2 DP 600576(111 Fowlers Lane, Possum Creek) Lot 3 DP 786274 (Settlement Road), Lot 12 DP 755712 (240 Charlton’s Road), Lot 3 DP 732638 (Englishes Road), Lot 11 DP 1039847 (74 Charlton’s Road) and Lot 16 DP 255603 (Coopers South Lane) on the draft LEP Multiple Occupancy and Community Title map as ‘Multiple Occupancy’.

The *Byron Rural Settlement Strategy* had concluded the subject sites **Character, Key Issues and Opportunities** for Rural Settlement for Federal as a *Rural Landsharing (Multiple Occupancy)* site were appropriate.

The *Byron Rural Settlement Strategy, 1998*, reported as follows for the Village of Federal:

Character

“Rural village and community with strong visual connection to rural landscape, agriculture including some farm forestry and horticulture”.

Key Issues

“Limited prime agricultural lands, excessive slopes, protecting rural amenity and cycleway access to Eureka Primary School”

Opportunities for Rural Settlement

- *Proposed Rural Community Title (Village Catchment) Settlement, estimated 215 dwelling houses)*
- *Proposed Rural Landsharing (Multiple Occupancies) Communities.*
- *Existing 1(c1) Small Holding Zone*
- *Existing Multiple Occupancies (2 properties)*
- *Attached dual occupancies*
- *Rural workers dwellings.*

As noted above, the subject site was initially included in the *Byron Rural Settlement Strategy, 1998*, and was subsequently removed from the MO/CT Map. The justification for removing the land from Map 2 of the Byron Rural Settlement Strategy 1998 was because it contained “*prime agricultural lands not suited to Rural Community Title Settlement*”; the landowner at the time was provided with an extra dwelling entitlement as part of the trade-off (as per July 2001 Council report). The site formerly identified within the Byron LEP 1988 Amendment No.67 MO/CT map has since been subdivided.

A letter dated 30 May 2017 was sent to the landowner advising that:

Council’s decision (*Res 13-388*) to include your land on the MO/CT Map in draft LEP 2012 was made from “the floor” at the 8 August 2013 Council meeting and did not accord with the staff report recommendation. In relation to your land, the accompanying submissions report specifically stated that it “*no longer has potential for multiple occupancy development under Byron Local Environmental Plan 1988 or Byron Rural Settlement Strategy 1998*”

(NOTE: *Res 13-388* was superseded by *Res 13-511* provided above)

Council at its 26 October 2017 Ordinary Meeting considered a report on the draft Rural Land Use Strategy and resolved (in part) to:

4. *Receive a report at the meeting on 23 November 2017 regarding site specific planning proposals being considered as part of the RLUS including at 74 Charltons Road, Federal”.*

Council at its 28 November 2017 extra ordinary Meeting resolved (in part) to:

- 2 *Defer consideration of Planning Proposals concerning 74 Charlton’s Road, Federal until site visits have been arranged.”*

Councillors undertook a site inspection on 17 April 2018.

A report was presented to Council on 19 April 2018 which summarized the relevant information in response to item ‘2’ of the above resolution (see Appendix 11). Council resolved:

1. *Proceed with a Planning Proposal to insert Lot 11 DP 1039847 (74 Charltons Road, Federal) on the Byron LEP 2014 ‘Multiple Occupancy and Community title map as the site is consistent with other existing approved Multiple Occupancies and Community titles in the Federal locality.”*
2. *Notify the applicant of Council’s decision.*

(NOTE: The planning proposal includes road reserve Lot 1 DP1143630, which has been purchased by the owner and is included in the site)

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

Yes. The intended outcome of this Planning Proposal can only be achieved by amending the *Multiple Occupancy and Community Title Map – Sheet MOC_003* to include the subject site.

This amendment reinstates what was originally acknowledged on Map 2 of the *Byron Rural Settlement Strategy, 1998* as a potential site for multiple occupancy development.

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

It is considered that amending the LEP is therefore the best means of achieving the objective of this proposal.

3. Is there a net Community Benefit

Yes. A future development application for multiple dwellings on the subject site will permit the retention of prime land for agriculture and permit additional rural living away from the coastal strip.

The site is within close proximity (1km) to the facilities of Federal including, the Post Office, preschool, shops, restaurants, halls, community recreational facilities and public transport.

Permitting Multiple Occupancy on the subject site will allow the opportunity for environmental improvements to the Wilsons River frontage / riparian area (see photos page 5) and revegetation of steeper slopes (see appendix 9, correspondence from Dr. Melissa Van Zwieten, Melaleuca Group).

It is considered that there is a net community benefit of this planning proposal for the following reasons:

- The subject site adjoins an existing Community Title Multiple Occupancy;
- The inclusion of multiple dwellings will assist to satisfy the objectives of the *Byron Rural Settlement Strategy 1998*;
- The owner will extend the existing bitumen in Charltons Road to the future site access;
- “Multiple Occupancy has historically been a preferred way of living in the rural areas of Byron Shire”
Source: *Byron Shire Development Control Plan 2014 Chapter D2 – Residential Accommodation and Ancillary Development in Rural Zones D2.6 Multiple Occupancy Development (See appendix 5).*
- To reflect the objectives and provisions of *Byron LEP 2014* relating to Multiple Occupancy Development;
- People to collectively own a single property and use it as their principal place of residence;
- The erection of multiple **dwellings** on the lot and the sharing of facilities and resources;
- The collective environmental repair and management of the lot;
- The pooling of resources to economically develop a wide range of communal rural living opportunities;
- Closer rural settlement in a clustered style in a manner that -
 - Protects the environment, and
 - Does not create an unreasonable demand for the provision of services or a demand for the uneconomic provision of services.

NOTE: It is the owners’ intention to convert the MO to Community Title as permitted under the LEP 2014; this enables the potential community members to seek and obtain finance to fund the purchase individual home sites.

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?**

Yes. The proposal is consistent with the Aims and Objectives of the following:

- ***The Far North Coast Regional Strategy, NSW Department of Planning, 2006 - 2013. (Now superseded by the North Coast Regional Plan 2036: refer to comments below in blue)***

The Regional challenges for the Far North Coast are based on a projected population regional increase of 60,400 persons from 2006 to 2031.

By 2031, an additional 51,000 dwellings will be required to house this growing and changing population.

The population and housing challenges are to:

- *Manage the expected population growth in a way that retains village character, enhances a sense of community, limits spread of urban development and minimises damage to environmental values and rural production,*
- *Provide choice in housing and affordability in appropriate locations that respond to changing demographics and the associated reduction in household occupancy rates, and*
- *Ensures that new development reflects and enhances the character of the settlement in which it is located and is based on best practice urban design principles.*

To accommodate this growth Council's have to prepare a *Local Growth Management Strategy* prior to rezoning further land for urban, commercial and industrial purposes in accordance with the *Settlement Planning Guidelines*. Council has recently commenced its next round of strategic planning for housing in the Shire.

The subject site was originally included on Map 2 of the ***Byron Rural Settlement Strategy, 1998 (BRSS)*** as potentially suitable for a *Proposed Rural Landsharing (Multiple Occupancy) Community* development site.

This Planning Proposal seeks to restore these original findings whilst meeting the above population and housing challenges for the Village of Federal. The site is located close to the Federal Village, which has been acknowledged as one of several proposed rural landsharing (Multiple Occupancy) communities (map 1) see BRSS p.36.

Rural landsharing communities are *designed to, promote sustainable, self- reliant communal living structure while also encouraging the collective repair and enhancement of the natural environment (Source BRSS p. 54).*

The subject sites area, orientation and topography will allow future development to satisfy the performance standards set out in Section 6.4 of the BRSS. Therefore it is considered that development of the site for an MO is consistent with the intent of *the Far North Coast Regional Strategy 1998*.

- ***The Settlement Planning Guidelines for the Mid and Far North Coast Regional Strategies, NSW Department of Planning, August 2007.***

The *Settlement Planning Guidelines for the Mid and Far North Coast Regional Strategies*, NSW Department of Planning August 2007 sets out a series of planning principles that seek to provide for the efficient and sustainable development of land.

The subject site was included in the *Byron Rural Settlement Strategy, 1998* and was considered suitable for a *Proposed Rural Landsharing (Multiple Occupancies) Communities* development site.

The site was originally identified and mapped as suitable for a MO because of its close proximity to the Federal Village. Any development will be the subject of a detailed development application in accordance with Council's DCP provisions for MO's (see appendix 5 - *Byron Shire Development Control Plan 2014, Chapter D2 – Residential Accommodation and Ancillary Development in Rural Zones D2.6 Multiple Occupancy Development*).

- ***The North Coast Regional Plan 2036***

Direction 24 of *The North Coast Regional Plan 2036* provides a framework for the delivery of rural residential housing areas and is therefore relevant to this planning proposal. Action 24.1 aims to facilitate the delivery of well-planned rural residential housing areas by:

- identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and
- ensuring that such proposals are consistent with *the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007)* or land release criteria (once finalised).

The subject site has not been identified in the *Byron Shire Rural Land Use Strategy (RLUS)* as a priority site for 'rural lifestyle living opportunities'. The strategy has been adopted by Council and has been submitted to the Department of Planning & Environment for endorsement.

The *Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007)* provided a basis for the selection criteria used in the RLUS to identify sites suitable for 'rural lifestyle living opportunities'. Table 1 in Appendix 11 (Council Report dated 19 April 2018) applies the selection criteria for 'rural lifestyle living opportunities' to the subject site and notes that the site does not meet the criteria.

Direction 11 of *The North Coast Regional Plan 2036* which seeks to protect and enhance productive agricultural lands in part by directing urban and rural residential development away from important farmland. The entirety of the subject site is mapped as regionally significant farmland.

Therefore, an amendment to Byron LEP 2014 to permit multiple occupancy development on the site is considered inconsistent with the objectives of the direction.

2. Is the Planning Proposal consistent with Council's Community Strategic Plan?

In 2012 Council adopted a 10 year + *Community Strategic Plan 2022 (CSP)*. The plan is based on five key themes being, *Corporate Management, Economy, Environment, Community infrastructure, Society and Culture*. This planning proposal is generally consistent with the following relevant goals -

EN3.6 : *Support initiatives that enhance socio-economic prosperity and resilience at the local level.*

Permitting additional rural housing options can enhance the social outcomes for families that want to live on the land.

On this basis the planning proposal is generally consistent with Council's *CSP*.

3. Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

State Environmental Planning Policy

- **SEPP Rural Lands 2008**

The proposal generally satisfies the rural planning principles as set out in this SEPP in particular -

(f) The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

The individual owners can participate in a rural lifestyle without seriously altering the existing settlement pattern and intended housing density of the *Byron Rural Settlement Strategy 1998*.

The subject site has not been identified in the *Byron Shire Rural Land Use Strategy* as a priority site for 'rural lifestyle living opportunities'. The strategy has been adopted by Council and has been submitted to the Department of Planning & Environment for endorsement.

The support for the planning proposal will not cause the loss of prime agricultural land in the Shire nor, create any likelihood of land use conflicts due to inadequate buffer separation of rural dwellings and legitimate agricultural pursuits on adjoining or nearby land (see map 3).

(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 subject site has not been identified in the *Byron Shire Rural Land Use Strategy* as a priority site for 'rural lifestyle living opportunities'. Table 1 in Appendix 11 (Council Report dated 19 April 2018) applies the selection criteria for 'rural lifestyle living opportunities' to the subject site and notes that the site does not meet the criteria. The criterion includes infrastructure considerations.

Direction 11 of *The North Coast Regional Plan 2036* which seeks to protect and enhance productive agricultural lands in part by directing urban and rural residential development away from important farmland. The entirety of the subject site is mapped as regionally significant farmland. Therefore, an amendment to Byron LEP 2014 to permit multiple occupancy development on the site is considered inconsistent with the objectives of the direction.

- **SEPP 44 Koala Habitat Protection**

Please refer to *Preliminary Environmental Advice for potential MO on Lot 11 DP 1039847, 74 Charltons Road Federal*, dated 1/12/2014 (See appendix 9 by Dr. Melissa Van Zwieten, Melaleuca Group).

The site is not mapped as Koala Habitat.

- **SEPP 55 Remediation of Land**

Please refer to *Preliminary Environmental Advice for potential MO on Lot 11 DP 1039847, 74 Charltons Road Federal*, dated 1/12/2014 (See appendix 9 by Dr. Melissa Van Zwieten, Melaleuca Group).

- **North Coast Regional Environmental Plan (NCREP)**

The NCREP no longer applies to land to which the *Byron LEP 2014* applies.

- **Living and Working in Rural Areas - A Handbook for Managing Land Use Conflict Issues on the NSW North Coast**

This document provides guidance on buffers and the land use conflict risk assessment process. The handbook has been produced by the *Centre for Coastal Agricultural Landscapes* (Dept Primary Industries, Southern Cross University and the CMA).

To include the subject site in *Byron LEP 2014* to allow Multiple Occupancy is not in conflict with Council planning for the immediate area. The predominate and preferred land use as mapped for land nearby and adjoining is for Multiple Occupancy development.

The proposed development will be in harmony with Councils preferred and predominant land uses in the vicinity of the site as illustrated in the MO map (map 1).

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

Yes. The following Section 117(2) Directions apply to the proposal. The proposal is considered to be consistent with the following:

Direction 1.2 Rural Zones

Objective

The objective of this direction is to protect the agricultural production value of rural land.

Comment

The Planning Proposal, whilst seeking a MO development opportunity will also seek to protect the better quality agricultural land described as *Regionally Significant Farmland* that extends mostly along the Charltons Road frontage of the site. Much of the site is poor quality agricultural land that will be the subject of detailed environmental and agricultural assessment with the lesser quality land set aside for revegetation and environmental enhancement.

The planning proposal is not inconsistent with the *Byron Rural Settlement Strategy 1998*, which recognised the subject site as suitable for multiple occupancy development as it is located close to the Federal Village settlement with existing services and community facilities. The planning proposal is in keeping with the Byron Rural Settlement principle of *promoting sustainable, self – reliant communal living while also encouraging the collective repair and enhancement of the natural environment.*

A planning proposal must:

- (a) *Not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*

Comment

The site zoned *RU2 Rural Landscape* and is mapped as entirely regionally significant farmland. This planning proposal does not seek to rezone the land rather, to enable the owner to apply for use of the subject site for multiple occupancy development.

The Byron Council had considered this amendment at its Meeting held September 19, 2013 when it considered amending the Draft Byron LEP 2012 in relation to the site and this specific planning proposal request and resolved (see appendix 1).

Council Resolved 13-511;

- 16.** *Insert Lot 6 DP 261219(226 Fowlers Lane, Possum Creek) Lot 2 DP 600576(111 Fowlers Lane, Possum Creek) Lot 3 DP 786274 (Settlement Road), Lot 12 DP 755712 (240 Charlton's Road), Lot 3 DP 732638 (Englshes Road), **Lot 11 DP 1039847 (74 Charlton's Road)** and Lot 16 DP 255603 (coopers South Lane) on the draft LEP Multiple Occupancy and Community Title map as 'Multiple Occupancy'.*

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) 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, or*
- (b) *justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
- (c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *is of minor significance.*

This Planning Proposal is not inconsistent with the rems of this direction as the site was originally mapped as suitable for a MO in the *Byron Rural Settlement Strategy 1998*.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The Objective of this direction is to ensure that the future extraction of State or Regionally significant resources is not compromised by inappropriate development.

Council's records do not indicate any State or Regionally significant resources on or in the vicinity of the site. NSW Trade and Investment – Resources and Energy will be consulted following a Gateway Determination to proceed with this Planning Proposal.

Direction 1.5 Rural Lands

This planning proposal is consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008* as follows:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas*

The planning proposal is consistent with the *SEPP Rural Lands 2008* as it aims to protect the productivity of the better quality rural land located at the top of the site adjoining Charltons Road. Thereby, reducing rural land fragmentation while locating the future MO dwellings along the lesser quality agricultural land hence, minimising the loss of prime agricultural land. It is envisaged that the better land will be retained for intensive agriculture.

The proposed amendment is not intended to undermine or create conflict with agriculture or other rural land uses. Applications will be required to address this, as it will be a head of consideration in the LEP clause.

(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 –

The need for Multiple Occupancy of Rural land is in response to the changing nature of agriculture and settlement in Byron Shire. There are many families and individuals wishing to have a rural lifestyle but have been prevented from doing so due to the high entry costs to acquire agricultural land. Multiple Occupancy developments allow more people to enjoy and participate in a lifestyle that is characteristic of the Byron image.

(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 –

Byron Shire has a sustainable agriculture strategy and understands the benefits of maintaining rural land uses. Multiple Occupancy development has been shown to offer both social and economic benefits that characterise Byron Shire.

(d) In planning for rural lands, to balance the social, economic and environmental interests of the community –

The nature of rural land use is changing and the socio-economic interests of a number of people and families that make up the Byron Shire community will be best served by permitting this form of rural housing.

(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 –

The LEP amendment will require consideration of the physical environment in which the development will be located, as well as its visual impact in accordance with the Byron LEP 2014.

(f) The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities

Multiple Occupancy dwellings will allow additional rural residents to contribute to the Federal rural community of Byron Shire.

(g) The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing

On-site sewage management and Bushfire Protection will be key matters in assessing a future development application for the site. These two factors will influence the on site location of all future dwellings.

A shared driveway entry point will reduce impacts on Charltons Road.

Keeping future dwellings in clusters will potentially allow sharing of electricity and telephone connections as well.

(h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General

The *Far North Coast Regional Strategy* applies to Byron Shire and this planning proposal is consistent with it, particularly in relation to providing for a range of housing types including affordable housing.

The Far North Coast Regional Strategy, NSW Department of Planning, 2006 – 2013 has been superseded by The North Coast Regional Plan 2036.

This planning proposal is inconsistent with *The North Coast Regional Plan 2036* because the subject site has not been identified in the *Byron Shire Rural Land Use Strategy* as a priority site for 'rural lifestyle living opportunities'. The strategy has been adopted by Council and has been submitted to the Department of Planning & Environment for endorsement.

Direction 11 of *The North Coast Regional Plan 2036* which seeks to protect and enhance productive agricultural lands in part by directing urban and rural residential development away from important farmland. The entirety of the subject site is mapped as regionally significant farmland. Therefore, an amendment to Byron LEP 2014 to permit multiple occupancy development on the site is considered inconsistent with the objectives of the direction.

Direction 4.3 Flood Prone Land

- Consistent

A small area of river frontage land at the very lower portion of the site is flood liable. The majority of the subject land is not flood prone land. The planning proposal does not propose to change the existing development controls related to flood impacts. No dwellings will be located near any flood prone land.

Direction 4.4 Bushfire Protection

Objectives

(1) The objectives of this direction are:

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

(b) to encourage sound management of bush fire prone areas.

A small proportion of the lot is bushfire prone. Bush fire management controls apply to the subject land regardless of the planning proposal.

A detailed "Bushfire Protection Assessment" will be provided following a Gateway Determination to proceed with this Planning Proposal.

Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast

The subject site is mapped as regionally significant farmland and is therefore subject to this direction.

Where this direction applies, a planning proposal must not rezone land mapped as State or Regionally significant farmland under the *Northern Rivers farmland Protection Project* for urban or rural residential purposes. Therefore, the planning proposal is inconsistent with this direction.

- (5) A planning proposal may be inconsistent with the terms of this direction only if council can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary) that the planning proposal is consistent with:*
- (a) the North Coast Regional Plan 2036, or*
 - (b) Section 4 of the report titled Northern Rivers Farmland Protection Project - Final Recommendations, February 2005, held by the Department of Planning and Environment.*

Exemption (5)(a) above does not apply to this planning proposal as it is considered inconsistent with *The North Coast Regional Plan 2036* for reasons stated above under Section 117 Direction 1.5 and under Part B - Question 1.

Exemption (5)(b) above does not apply to this planning proposal. In regard to rural residential development, *Section 4* of the report titled *Northern Rivers Farmland Protection Project - Final Recommendations, February 2005* states that:

Regionally significant farmland cannot be considered for rural residential rezoning... Councils when preparing new rural residential settlement strategies cannot consider regionally significant farmland for inclusion.

Accordingly, the subject site is not identified for 'rural lifestyle living opportunities' in the *Byron Shire Rural Land Use Strategy*. The strategy has been adopted by Council and has been submitted to the Department of Planning & Environment for endorsement.

Direction 5.10 Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.

This planning proposal is considered inconsistent with *The North Coast Regional Plan 2036* for reasons stated above under Section 117 Directions 1.5 & 5.3, and under Part B - Question 1. Therefore, the planning proposal is considered inconsistent with this direction.

C. Environmental, Social and Economic Impact.

- **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?**

No. Please refer to *Preliminary Environmental Advice for potential MO on Lot 11 in DP 1039847,74 Charltons Road Federal*, dated 1/12/2014 (See appendix 9 by Dr. Melissa Van Zwieten, Melaleuca Group).

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

The likely environmental effects are all positive.

The owners plan to discontinue livestock grazing on degraded and unproductive land areas and implement a program of environment rehabilitation that would include the fencing off of these areas to facilitate a program of –

- Replanting of native trees and shrubs;
- Extending the existing area of riparian zone restoration on Wilsons River;
- The establishment of a new riparian zone rehabilitation project on another internal creek located on the property;
- Improve the biodiversity outcomes for both flora and fauna;
- Protect and enhancing the establishment of fauna habitat, and;
- The ownership of the areas of rehabilitation to be owned by the community and access to be created.

- **How has the planning proposal adequately addressed any social and economic effects?**

At the present, there has been no detailed investigation of the social or economic effects, however new dwellings to be developed will create demand for local resources, skills, labour and materials to undertake construction, environmental repair, landscaping and ongoing maintenance which will be documented in the management statement.

Further social and economic benefits will include the reduction of water contamination in the

Wilson River Catchment, as the grazing activities will be further located from riparian zones and water courses.

The owners also support the construction of a bike path to enable easy and safe access to Federal Village.

The property has been continuously used for grazing for the past 100 years and is mostly cleared of native vegetation.

There is no evidence of any indigenous or non-indigenous heritage items.

D. State and Commonwealth Interests

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

Table 1 in Appendix 11 (Council Report dated 19 April 2018) notes that the subject site is located outside of 5km from a major service catchment and cannot be adequately serviced by existing or committed road infrastructure at a standard suitable for the predicted level and type of traffic resulting from development and at no cost to the wider community. These considerations are part of the essential infrastructure criteria for identifying future 'rural lifestyle living' opportunities under the recently adopted Rural Land Use Strategy.

Sewer services and water supply are not available to the site, however these could be provided via on-site systems.

Telecommunications and reticulated power is delivered adjacent to the site and can be extended to it. Alternative means of telecommunications access may be available if the site is within a wireless NBN service catchment.

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

A gateway determination is yet to be issued for this planning proposal.

E. Community Consultation

Should a positive Gateway Determination be issued, Council will undertake community consultation in accordance with the Gateway requirements.

Appendix 1
BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

19 SEPTEMBER 2013 (23 of 24)

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.12. PLANNING – Draft Byron LEP 2012 Submissions Finalisation Report 2

File No: #E2013/49342

13-511 Resolved:

1. That Lot 6 DP 792431, 214 Balraith Lane Ewingsdale be considered in the preparation of the Byron Rural Settlement Strategy (as per Part 25(b) of resolution 13-384) and / or included on a map of possible strategic growth opportunities for further consideration when developing evidenced based plans to inform the Local Plan.
2. That in relation to point 11. of resolution 13-240 on 9 May 2013, a zoning of B4 Mixed Use be applied to land located at Lot 10 DP 805193, 2-6 Old Pacific Highway, Brunswick Heads to accommodate the existing motel on the site.
3. That Council delegate authority to the Executive Manager – Environment & Planning to make (non-policy) amendments to the Draft LEP instrument and maps resulting from: minor adjustments to cadastral boundaries; consequential amendments to the Standard LEP, mapping guidelines or draft LEP provisions; or to correct minor errors or omissions; and that Council be advised of the amendments made under delegated authority.
4. That for reasons set out in Annexure 6(b) to this report, Council defer all draft LEP 2012 provisions and mapping relating to the following matters:
 - a) land known as the 'West Byron Bay Urban Release Area' that is subject of a Transitional Major Project (formerly Part 3A State significant rezoning proposal),
 - b) land at the Bayside Brunswick Residential Estate that is subject of a Transitional Major Project (formerly Part 3A State significant development application);
 - c) land identified as 'Deferred Matter' located generally in the coastal zone in the exhibited draft LEP, and
 - d) all proposed E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living zones, and
 - e) clause 6.12 Riparian land and watercourses, clause 6.13 Development near the E2 or E1 zone, clause 6.14 Biodiversity (Terrestrial), 'Watercourse Map' and 'Terrestrial Biodiversity Map'.
5. That the Draft Byron LEP 2012 be amended to make 'caravan parks' permissible with consent in R3 Medium Density Residential zones.
6. That a floor space ratio of 0.6:1 and a minimum lot size of 450m² be applied to the part of Lot 100 DP 1070724 (35 Bayside Way, Brunswick Heads) proposed to be zoned R3 Medium density residential in the draft LEP.
7. That the Draft LEP Land Zoning Map be corrected to include the full extent of land identified as State Significant Farmland as RU1 Primary Production zone (as per Council's adopted zoning methodology) on Lot 101 DP 1156821 and Lot 100 DP 1151011, as shown in Map 2 of Annexure 6(d) of this report.
8. That Council consider any modifications to the RU1 and RU2 zoning methodology as part of the development of future evidence-based planning strategies as part of the Local Plan.
9. It is recommended that Schedule 5 of Draft Byron LEP 2012 and/or the draft Heritage Map be amended by:

Ordinary Meeting Minutes 19/09/13

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

19 SEPTEMBER 2013 (24 of 24)

- a) Deleting Heritage Item I178 (*Lot 1 DP 1143266*);
 - b) Amending Heritage Item I172 to reflect only the Shield Tree on Lot 2 DP859951; and
 - c) Amending property description of Heritage Item I098 from Lot 1 DP 923903 to Lot 1 DP 1173905, to reflect the most current information on Council's property system; and amending the corresponding item description to read: "Zalmonah house' (including interior finishes)".
10. That Council write to landowners of the draft LEP heritage properties inspected on 23/08/13 to advise of the assessment outcomes.
 11. That Council considers the matters raised in submissions are not of such significance as to warrant a public hearing and that to hold a hearing in relation to matters that are subject to a separate Ministerial review would be premature given that these will be deferred from the final LEP.
 12. That Council concludes that the changes to the Draft Plan are not of such significance to warrant a re-exhibition of the Draft Plan and directs staff to finalise the draft Byron LEP for final adoption by Council and submission to the Department.
 13. That Council include the RU1/RU2 mapping amendments arising from applying the adopted 'RU1' zoning methodology in the report to Council on 31 October 2013.
 14. That the matters specified in Recommendation '4.' above be identified as 'Deferred Matter' in any re-exhibited version of the draft LEP.
 15. That staff prepare and implement a communication strategy to convey to the residents, ratepayers, submitters and general public that the draft LEP has been finalised in accordance with the resolutions of Council, including an outline of key changes made and next steps from here.
 16. Insert Lot 6 DP 261219 (226 Fowlers Lane, Possum Creek), Lot 2 DP 600576 (111 Fowlers Lane, Possum Creek), Lot 3 DP786274 (Settlement Road), Lot 12 DP 755712 (240 Charltons Road), Lot 3 DP 732638 (Englishes Road), Lot 11 DP 1039847 (74 Charltons Road), and Lot 16 DP 255603 (Coopers South Lane) on the draft LEP Multiple Occupancy and Community Title map as 'Multiple Occupancy'.
 17. That a late report be brought to Council at the Ordinary Meeting on 10 October 2013 regarding the possible zoning of the Former Telstra site in Lot 1 DP 435267 Station Street Mullumbimby to B4.
(Ibrahim/Dey
)

The motion was put to the vote and declared carried.

Crs Ibrahim, Dey, Cubis, Richardson, Cameron, Wanchap, Spooner and Hunter voted in favour of the motion.

Cr Woods voted against the motion.

There being no further business the meeting concluded at 4.18pm.

I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 10 October 2013.

Mayor Simon Richardson

Appendix 2

Mr J Jackson
PO Box 100
FEDERAL NSW 2480

Our ref: 09/02466

Dear Mr Jackson

Byron Local Environmental Plan 2014 and Lot 11 DP 1039847, 74 Charlton's Road, Federal

I refer to your letter sent via email on 3 July 2014 and your query regarding the exclusion of your property 74 Charlton's Road Federal, from the *Multiple Occupancy and Community Title Map* in the *Byron LEP 2014*.

As discussed in our telephone conversation (02/07/2014) your property was not included in the draft *Byron LEP 2012* which was placed on public exhibition from 24 September till 24 December 2012. Your property was introduced to be included in the LEP from the Council floor post exhibition at the Council Meeting 19 September 2013.

When a change to an LEP is proposed, such as your rezoning request, this change or amendment is required under *Section 57 of Environmental Planning & Assessment Act 1979 (EP&A Act)* to be placed on exhibition for 'community consultation'. I have attached this section of the Act for your reference.

As your property was not subject to this community consultation during exhibition of the LEP, the Department as part of their final assessment deleted your property from the LEP. If your property had been included in the LEP which was published on 30 May 2014, it would arguably have been in breach of *Section 57 of the EP&A Act*.

A number of other properties listed in the Council minutes (19 September 2013) that requested the inclusion on the *Multiple Occupancy and Community Title Map* as Multiple Occupancy were removed from the LEP prior to the Minister making the Plan. Two properties were included in the LEP one of which had been subject to an earlier planning proposal and the other to correct a mapping anomaly.

To progress your application to rezone your property you should consult with the Council to see if the Council would support the proposal. If Council supports the rezoning then Council may prepare a Planning Proposal.

The Gateway process for planning proposals is further explained on the Department website www.planning.nsw.gov.au under the tab '*Planning your Local Area*' (*Gateway Process*).

The Department have published two guides to assist councils in understanding the Gateway process and preparing Planning Proposals; '*Guide to Preparing Local Environmental Plans*' and '*Guide to Preparing Planning Proposals*'. These are available on the Departments website (as above) under the Gateway process tab. These are the two documents that Council would use to assist in the preparation of Planning Proposals.

2

It is suggested that you consult with Council on this issue, as Council will be able to explain the information needed to progress a rezoning application.

Yours sincerely



Jim Clark
Team Leader, Local Planning, Northern Region

Cc: Emma-Jayne Leckie
Byron Shire Council

Appendix 3

BSC File No: #E2014/47986
Contact: Emma-Jayne Leckie
21 July 2014

Mr James Jackson
PO Box 100
Federal NSW 2480
Dear Mr Jackson

Byron Local Environmental Plan (LEP) 2014 and Lot 11 DP 1039847, 74 Charlton's Road, Federal.

In your letter to Council's Emma-Jayne Leckie dated 1 July 2014 you requested a written explanation regarding why the abovementioned property was not included in Byron LEP 2014. I note that you have had contact with the Department of Planning and Environment Grafton Regional Office in the meantime and they have been able to provide this clarification in their recent letter to you. Notably the letter suggested that you contact Council about whether it would support a planning proposal to amend Byron LEP 2014 in relation to the property.

In considering submissions on the Draft LEP, Council resolved (13-384):

25. a) That Council investigate possible options to address rural land without dwelling entitlements, illegal dwellings/Multiple Occupancy developments and additional Rural Residential/Multiple Occupancy /Community Title lands following gazettal of draft Byron LEP 2012.

b) That Council consider preparing a new rural settlement strategy in the financial year 2014/2015.

(Resolution 13-384)

Although it is our preference that the subject property is considered during the preparation of the abovementioned strategic planning documents Council would support preparation of a planning proposal consistent with what was supported by Council in the draft LEP ahead of the completion of the work described above. If you pursue a planning proposal now Council cannot guarantee that Byron LEP 2014 will be amended in the manner you seek.

If you would like to proceed with amending Byron LEP 2014 now Council would expect the submission of a written planning proposal prepared in accordance with the Department of Planning & Environment guidelines and relevant legislation. Council staff would then review this document, make any necessary changes to comply with legislation etc and then report the matter to the elected Council for their support.

Following this the matter would be sent to the Department of Planning & Environment for a gateway determination. The planning proposal for your property may be considered in conjunction with other properties in a similar situation or progressed separately.

Ordinarily the processing of planning proposals is on a 'user pays' basis however you will not be expected to contribute for processing otherwise than to prepare the planning proposal as discussed above and be available to clarify any aspect of the proposal submitted. In the event that more detailed studies are required during the assessment of the proposal you will be responsible for funding the preparation of any such studies. As Emma-Jayne discussed with you on the phone last week there are other properties in a similar situation to 74 Charlton's Road and this opportunity will be extended to those also.

You are advised to make an appointment with Council's Strategic Planning staff to discuss the required information and to clarify any aspects of the process before a planning proposal is prepared.

Should you have any enquiries about this letter please contact Emma-Jayne Leckie (Acting Team Leader Strategic Land Planning) on 6626 7169 or email

emma-jayne.leckie@byron.nsw.gov.au.

Yours sincerely

Ray Darney

Director Planning & Environment

Appendix 4

Clause 4.2B Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural Landsharing community developments

(1) The objectives of this clause are as follows:

(a) to permit:

- (i) people to collectively own a single lot of land and use it as their principal place of residence, and
- (ii) the erection of multiple dwellings on the lot and the sharing of facilities and resources, and
- (iii) the collective environmental repair and management of the lot, and
- (iv) the pooling of resources to economically develop a wide range of communal rural living opportunities,

(b) to facilitate closer rural settlement in a clustered style in a manner that:

- (i) protects the environment, and
- (ii) does not create any unreasonable demand for the provision of services or any unreasonable demand for the uneconomic provision of services.

(2) This clause applies to land outlined by a thick green line on the Multiple Occupancy and Community Title Map.

(3) Development may be carried out with consent for the erection of more than one dwelling house or dual occupancy (attached) on such a lot provided that:

(a) if there is a number shown for that lot on the Multiple Occupancy and Community Title Map—the total number of dwellings on the lot will not exceed the number marked for that lot on that Map, or

(b) if there is no number shown for that lot on that Map—there will not be less than 3 dwellings, and not more than 1 dwelling for every 3 hectares, up to a maximum of 15 dwellings, on the lot.

(4) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that:

(a) there will be appropriate management measures in place that will ensure the protection of the landscape, biodiversity and rural setting of the land, and

(b) the development is complementary to the rural and environmental attributes of the land and its surrounds.

Appendix 5

Byron Shire Development Control Plan 2014

Chapter D2 – Residential Accommodation and Ancillary Development in Rural Zones D2.6 Multiple Occupancy Development

“Multiple Occupancy has historically been a preferred way of living in the rural areas of Byron Shire. The following controls have been prepared to implement the Aims, Guiding Principles, Best Practice Guidelines and Performance Standards of the Byron Rural Settlement Strategy 1998 relating to Multiple Occupancy Development”

D2.6.1 Multiple Occupancy Development of Rural Land

Objectives

1. *To reflect the objectives and provisions of Byron LEP 2014 relating to Multiple Occupancy Development.*
2. *To enable:*
 - *people to collectively own a single property and use it as their principal place of residence, and*
 - *the erection of multiple **dwelling**s on the lot and the sharing of facilities and resources, and*
 - *the collective environmental repair and management of the lot, and*
 - *the pooling of resources to economically develop a wide range of communal rural living opportunities.*
3. *To facilitate closer rural settlement in a clustered style in a manner that:*
 - *protects the environment, and*
 - *does not create an unreasonable demand for the provision of services or a demand for the uneconomic provision of services, and*
 - *does not involve subdivision under Community Title, Torrens Title or Strata Title, or any other form of separate land title, and*
 - *to implement the aims, guiding principles, guidelines and performance standards for rural settlement in the Byron Rural Settlement Strategy 1998, available from the office of the council.*

Performance Criteria

1. *The location of **dwelling houses**, including any existing **dwelling house(s)**, are to be sited in a clustered style to facilitate social interaction between residents, to limit the cost of construction for residents in terms of the provision of services and access roads, and minimising environmental impacts from unnecessary earthworks and vegetation removal.*

2. The siting of **dwelling houses** shall have regard to the physical characteristics of the land, including topography, drainage lines, existing vegetation, bushfire constraints and other hazards and accessibility by vehicle.
3. Suitable detail, reports and management plans to be submitted with the application demonstrating:
 - the proposal will have a positive impact upon the environment through environmental repair and enhancement;
 - measures for the management of the land by various landowners setting out rights and responsibilities, dispute resolution and collective use of resources;
 - how effluent will be disposed of on site, water will be managed and hazards such as bushfire mitigated.

Prescriptive Measures

1. Siting and Clustering of House Sites

Dwelling houses must be clustered in three (3) or more houses or future house sites.

Separate clustering must demonstrate that the environmental and social impact or impacts of a number of **dwelling houses** and building clusters is less than a single clustering of **dwelling houses** and buildings. Clustering is defined to be **dwelling houses**, community buildings, garages, farm sheds and any other buildings located within close proximity and easy walking distance to each other. The distances apart must average 80 metres in a cluster but not exceeding 160 metres between any two **dwelling houses** in a cluster.

The Council shall not grant consent where the proposed development is in a dispersed style. A dispersed style is a style in which the **dwelling houses** are located throughout the developable land resulting in longer than necessary road access arrangements or longer than necessary power supply arrangements or adverse social or environmental impacts.

All **dwelling houses**, or sites for future **dwelling houses** to be located with floor levels above the **flood planning level** of any natural waterbody, watercourse, river, creek or wetland.

No building or future **dwelling house** site envelope to be within 55 m of a **classified road**.

Dwelling houses, future house sites, farm sheds and other structures to be sited in accordance with the requirements of Chapter C3 Visually Prominent Sites, Visually Prominent Development & View Sharing.

2. Environmental Impact Assessment Report

An Environmental Impact Assessment Report should be prepared to Council's satisfaction to determine the area and location of developable land. It should address the following matters:

a) A full description of the development and the existing environment likely to be affected, including a concept plan and land capability and suitability report which identifies the following:

- (i) lands subject to bushfire hazards (Vegetation Category 1 and 2), flooding (land affected by 1:100 ARI flood event) and slopes greater than 20 percent;

- (ii) *prime agricultural lands, (classes 1, 2 and 3);*
- (iii) **High conservation value vegetation and habitats** and existing habitat areas for flora, fauna or ecological communities listed under the Threatened Species and Conservation Act 1995 and associated buffers;
- (iv) *areas identified for environmental repair, weeding and plantings;*
- (v) *watercourses, natural drainage lines, permanent creeks, streams, wetlands and associated buffers;*
- (vi) *areas of visual significance as seen from public roads, parks and elsewhere in the general public domain;*
- (vii) *land slip areas and soil erosion areas;*
- (viii) *adjoining or surrounding land uses, including **intensive livestock agriculture**, extensive agricultural activities, **intensive plant agriculture** and **extractive industries** (including potential areas of extractive resources) which may produce a conflict with the proposed multiple occupancy having regard to the buffers needed to protect future residential amenity;*
- (ix) *any contaminated sites such as dip sites, sawmills, quarries or chemical storage dumps and associated buffers;*
- (x) *directions, distances and standard of roads to local shops, halls, schools, parks and community facilities;*
- (xi) *school bus services and capacity to meet any likely increase in demand;*
- (xii) *internal access roads both existing and proposed;*
- (xiii) *indicative footprints of all proposed and existing **dwelling houses** and other building sites including community buildings, sheds and any other farm structures.*

Note: Any required buffers to be calculated in accordance with Chapter B6 Buffers and Minimising Land Use Conflict.

*b) As a result of the above, an assessment is to be made to calculate the area and location of developable land which is relatively unconstrained and potentially suitable for the location of **dwelling houses**, community buildings and other buildings. It is this developable land area where Council will expect to see the proposed **dwelling**s clustered.*

The decision as to whether or not land is unsuitable for development must take into account the combined effect of each of the matters described in Prescriptive Measure 2(a)(i) to (ix) above on all parts of the property, together with any proposed management or impact amelioration measures.

3. Rural Landsharing Management Plan

A Rural Landsharing Management Plan should be prepared to Council's satisfaction and clearly address the following issues:

a) the degree of recognition and understanding among the community regarding collective land ownership and use of resources;

b) the designated theme for the respective Multiple Occupancy Community;

c) the aims and objectives of the respective Multiple Occupancy Community;

d) any intentions of the respective Multiple Occupancy Community in terms of social cohesion, development of community, cooperation and sharing, development of rural living opportunities, the construction of buildings, the use of land, and any economic or business development or other activities which are intended to take place on the land;

*e) how ownership 'shares' or an individuals entitlements are to be allocated including the means proposed for establishing land ownership, **dwelling house** occupancy rights, environmental and community management and the internal enforcement provisions of the Rural Landsharing Management Plan are deemed by the Council to be adequate and workable;*

f) how shareholders or owners in the Multiple Occupancy Development are to reach decisions on matters affecting the Multiple Occupancy Community;

g) how shareholders or owners can dispose of their interest in the Multiple Occupancy Community;

h) provisions for mediation and dispute resolution provisions;

i) the type of behaviour which is permissible on the Multiple Occupancy Community in terms of what is acceptable regarding:

- use of the land for housing, commercial agriculture, domestic food production and other purposes;*
- visitors and tourists;*
- noise;*
- use of chemicals;*
- keeping of cats, dogs and other animals;*
- lifestyle;*
- Landcare;*
- disposal of sewage;*
- disposal of domestic waste and recycling;*
- environmental repair; and*

- any other appropriate matters.

Access roads

All internal access roads

- must have a minimum width of 4.0m;
- gradients in excess of 12% are to be bitumen or concrete sealed;
- must be constructed and drained to provide all-weather access for two wheel drive vehicles; and
- in bushfire prone areas must be designed and constructed to comply with the requirements of the Rural Fire Service (for further detail see *Planning for Bushfire Protection 2006*).

1. Bushfire Management

*In areas mapped as **bushfire prone land** a detailed Bushfire Assessment Report, prepared by a suitably qualified professional to be submitted with the development application. The report is to include as a minimum the following details:*

a) A description (including the address) of the property on which the development the subject of the application is proposed to be carried out;

*b) A classification of the vegetation on and surrounding the property (out to a distance of 140 metres from the boundaries of the property) in accordance with the system for classification of vegetation contained in *Planning for Bush Fire Protection*;*

c) An assessment of the slope of the land on and surrounding the property (out to a distance of 100 metres from the boundaries of the property);

d) Identification of any significant environmental features on the property;

e) The details of any threatened species, population or ecological community identified under the Threatened Species Conservation Act 1995 that is known to the applicant to exist on the property;

f) The details and location of any Aboriginal object (within the meaning of the National Parks and Wildlife Act 1974) or Aboriginal place (within the meaning of that Act) that is known to the applicant to be situated on the property;

g) a bush fire assessment for the proposed development (including the methodology used in the assessment) that addresses the following matters:

- i. the extent to which the development is to provide for setbacks, including asset protection zones for each **dwelling house** or future house site within the multiple occupancy;
- ii. the siting and adequacy of water supplies for fire fighting;
- iii. the capacity of public roads in the vicinity to handle increased volumes of traffic in the event of a bush fire emergency, and any upgrading that may be required;

- iv. whether or not public roads in the vicinity that link with the fire trail network have two-way access;
 - v. the adequacy of proposed arrangements for access to and egress from the Multiple Occupancy for the purposes of an emergency response;
 - vi. the adequacy of bush fire maintenance plans and fire emergency procedures for the multiple occupancy;
 - vii. the construction standards to be used for building elements in the development, including details on any upgrading of existing buildings in terms of the Australian Standard 3959 – 2009 Construction of Buildings in Bushfire Prone Areas, or construction standards for new buildings;
 - viii. the adequacy of sprinkler systems and other fire protection measures to be incorporated into the development;
- h) an assessment of the extent to which the proposed development conforms with or deviates from the standards, specific objectives and performance criteria set out in Planning for Bush Fire Protection 2006 or as amended.

6. Vegetation Management Plan

a) In accordance with the Byron Rural Settlement Strategy it has been a requirement that proposals for Multiple Occupancy development to also include an element of environmental repair and enhancement based on 900 trees per **dwelling house**. Such repair is to be focused on the expansion of wildlife corridors, reconnecting vegetation remnants, and enhancing riparian areas and habitat for threatened species and endangered plant communities.

b) Where properties are significantly infested by woody weeds (e.g. camphor laurel, lantana etc) Council will consider requests to undertake environmental repair and enhancement activities based on weed control and assisted natural regeneration and a lesser number of trees to be planted where it can be demonstrated that the proposal will have a similar positive environmental impact to planting 900 trees per dwelling house.

c) Council will also consider requests to undertake environmental repair and enhancement activities on other rural sites within the Shire (instead of on the land the subject of the application) where it can be demonstrated that the subject land:

- i. contains adequate native vegetation cover not threatened by competitive/ inhibiting weed or noxious plant invasion and requires no further environmental repair and enhancement activities; or
- ii. contains existing reforestation works undertaken as part of a long term program and where such works can be substantiated to Council's satisfaction; or
- iii. notwithstanding the vegetation attributes of the land, the applicant identifies a higher priority location in the same local catchment area requiring urgent environmental repair and enhancement and that Council agrees to such a location.

Note: Where an applicant seeks to carry out environmental repair and enhancement work on another rural property, the consent from the land owner is to be submitted with the Development Application.

d) Applications for Multiple Occupancy Development are to include a **vegetation management plan** detailing the revegetation and/or restoration program to be carried out over a period of at least five (5) years. The content of the **vegetation management plan** shall include the following:

i) site features including maps showing the location of riparian areas, existing native vegetation stands, weed infestations, threatened species and proposed management zones for revegetation and/or restoration;

ii) the principal aims and objectives of the plan as they relate to the flora and fauna communities and habitat on the land and surrounding localities;

iii) a detailed planting and/or restoration strategy to achieve these aims and objectives and, where applicable, a longer term program for the eradication/ management of Camphor Laurels and other weed species;

iv) specific locations, spacing/density, names and mature heights of tree and shrub and other species to be planted;

v) an implementation schedule including the expected completion date for planting activities;

vi) how adequate site preparation and maintenance, including the initial clearing and on-going control of competitive/inhibiting grass and weeds, mechanisms to protect plantings from stock (fencing essential) or other browsing animals including natives (e.g. Wallabies) will be undertaken within planting areas;

vii) a species planting list appropriate to the relevant area and details of provenance to ensure only locally sourced species are used in revegetation works;

viii) performance indicators such as a 90% survival rate (of establishment of planted trees), to be achieved at the end of 24 months following the completion of planting activities or at a later date as agreed upon by Council for reasons such as climatic or geographic factors, or appropriate changes in cover of native and exotic species. A Council appointed person may undertake a site assessment at a nominal cost to applicant to determine compliance with any performance indicators;

ix) a monitoring and evaluation strategy to measure performance indicators and demonstrate progress against plan objectives. This may involve both qualitative and quantitative monitoring;

x) templates for documenting revegetation and/or restoration activities (i.e. daily record sheets), and vegetation monitoring;

xi) reporting and auditing requirements over a five year period from the time of commencement to the time of completion. Reports are to include:

- an assessment of progress against plan objectives, performance targets and activities as detailed in the implementation schedule;

- copies of daily record sheets and monitoring sheets, deviations from the approved schedule of works and adaptive management recommendations (if required).

As a minimum, one progress report to be factored in after year 2 and reported to Council and a final audit report following completion of work to be submitted to Council. The progress report and final audit report are to be certified by a suitably qualified bush regenerator, ecologist or environmental scientist that works approved under the **vegetation management plan** have been completed.

7. Water Management Plan

a) A Water Management Plan to be submitted with the development application addressing the following:

- location, source and capacity of water supply for domestic, agricultural and fire prevention uses;
- how the layout of the multiple occupancy and location of **dwelling houses** and future house sites, will protect drainage lines and water courses;
- where a reliable dam supply is necessary to satisfy irrigation and stock requirements, that a quantifiable criteria of water catchment area has been established based on rainfall data, runoff data, expected consumption and a connecting formulae;
- minimum water tank storage for domestic use is 40,000 litres per dwelling house plus any additional requirements of the Rural Fire Service for fire fighting purposes; and
- adequate water conservation measures (dual flush toilets, aerated shower roses and bathroom taps, water reuse, etc.) to be implemented as part of the development.

b) An assessment of the impact on groundwater and surface water according to the NSW State Groundwater Policy and Framework Document 1997.

c) Multiple use of dams and pumps to supply water for any purpose must be authorised under the provisions of the *Water Management Act 2000* or the *Water Act 1912*.

8. Effluent Disposal

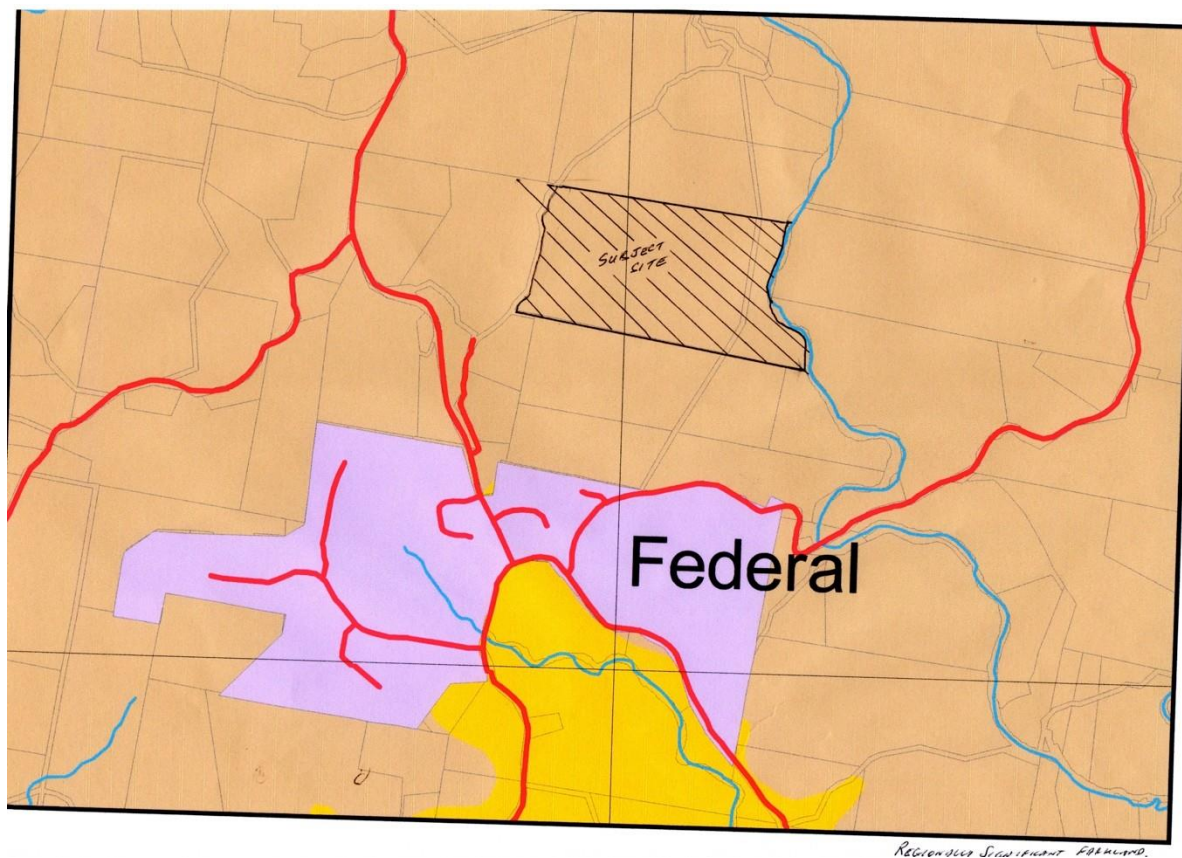
Details to be submitted with the development application by a suitably qualified professional that effluent can be disposed of on site in accordance with Council requirements for rural dwelling houses.

The report is to be prepared in accordance with the requirements of Chapter B3 Services.

1 Dwelling houses

Individual **dwelling houses** to comply with the relevant provisions contained within this Chapter for single **dwelling houses**, including D2.2 and D2.3.

Appendix 6



Map 4: Regionally Significant Farmland map

Appendix 7

State Environmental Planning Policy (SEPP) Checklist

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP (Rural Lands) 2008	Partial Compliance	The planning proposal is inconsistent with Rural Planning Principles (g) and (h) in Part 2 of the SEPP.
SEPP 55 Remediation of Land	Not Compliant	Soil testing for contaminants at DA stage. No contamination assessment has been undertaken.

Appendix 8**SECTION 117 DIRECTION CHECKLIST**

PLEASE REFER TO UPDATED COMMENTS (BLUE) IN PART B OF THE PLANNING PROPOSAL

SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
1. EMPLOYMENT AND RESOURCES		
1.1 Rural Zones A planning proposal must: <ul style="list-style-type: none"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. 		This planning proposal seeks to enable the owner to apply for use of the subject site for multiple occupancy development and does not seek to rezone the land from its existing rural (RU2) zone. The inconsistency with this Direction as it relates to the protection of rural land with agricultural production value is considered of minor significance.
1.5 Rural Lands <ul style="list-style-type: none"> • The objectives of this direction are to: <ul style="list-style-type: none"> a. protect the agricultural production value of rural land, b. facilitate the orderly and economic development of rural lands for rural and related purposes. 	Complies	The objectives of this Planning Proposal is to: <ul style="list-style-type: none"> • <i>protect the better agricultural production value of rural land, and</i> • <i>facilitate the orderly and economic development of remaining rural lands for rural and related purposes in conjunction with the provisions of Multiple Occupancy development. .</i>
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental protection Zones	Complies	Areas of significant environmental value (including additional areas of habitat value) will be identified and environmental protection zones applied.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
4. HAZARD AND RISK		

4.3 Flood Prone Land	Complies	There is a small area of the site on the lower slope adjoining the Wilson River
SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
4.4 Planning for Bushfire Protection	Complies	<p>that is flood prone land. Existing development controls related to flood impacts are not proposed to be changed by the planning proposal. No dwellings will be located on flood prone land.</p> <p>A proportion of the site is bushfire prone.</p> <p>Bush fire management controls apply to the subject land regardless of the planning proposal.</p> <p>A detailed bushfire report will be provided at DA stage in accordance with the Rural Fire Service requirements under S. 62 of the EP&A Act and comply with Planning for Bushfire Protection.</p>
5. REGIONAL PLANNING		
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Complies	The site is listed as Regionally significant farmland.
		An Agricultural Report will be provided at DA stage to identify and address in site specific details.

6. LOCAL PLAN MAKING

Appendix 9

[REFER TO COPY OF APPLICANT'S PLANNING PROPOSAL REPORTED TO
19 APRIL 2018 COUNCIL MEETING]

Appendix 10

Paul De Fina

A.B.N. 41 148 196 270

Town Planner

PO Box 282 Bangalow, NSW, 2479.

Telephone 02 66 872028 Mobile 0400 572028

E-Mail: paul@defina.com.au

8 December 2014

General Manager
Byron Shire Council
Station Street
Mullumbimby.

Dear Sir

Re: Planning Proposal for 74 Charltons Road, Federal

The office of Paul De Fina, Town Planner was retained by the owners of the subject site to prepare a Planning Proposal that would permit the future development of the site for a Multiple Occupancy rural development.

The Planning Proposal has been completed under the NSW Department of Planning's "Gateway Determination" system for the making of a Local Environmental Plan under the Environmental Planning and Assessment Act.

The document explains the relevant environmental, social, and economic impacts as well as the intended effect of the proposal and the justification for making it under S 55 (1) of the EP & A Act.

In 1998 the subject site was considered suitable for multiple occupancy and was mapped in the Byron Rural Settlement Strategy as a MO site. At the request of the owner in 1998 the site was removed from the Map of sites appropriate for a MO.

5

An application was made to Council to have the site included in the MO map as part of the Byron draft LEP for the Shire. Council supported the inclusion of the site however due to time constraints the modification could not be acted upon without public exhibition.

10

The site is within one kilometre of the Federal Village and has been used for cattle grazing for the past 80 years.

15

The site is ideally for a MO as set out in the submission. The Planning Proposal is complies and or satisfies all State and regional Planning Policies and Section 117 Directions.

20

It is our conclusion that the site is appropriate for inclusion as a MO as requested.

25

If there are any questions or need for additional information please contact my office.

30

35 

Paul De Fina

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B.App.Sc. (Environmental Planning)
MPIA

NSW LGTC&P No. 474

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Stacie Brooker

B. Env.Sc
M.UrbEnvPlan

Appendix 11

5 **Report No. 13.9** **PLANNING - Site Specific Planning Proposal considered as part the Rural Land Use Strategy Process - 74 Charltons Road, Federal**
Directorate: Sustainable Environment and Economy
Report Author: Alex Caras, Land Use Planning Coordinator
File No: I2018/76
10 **Theme:** Ecology
Planning Policy and Natural Environment

15 **Summary:**

Council at its 26 October 2017 Ordinary Meeting considered a report on the draft Rural Land Use Strategy and resolved (in part) to:

20 “4. *Receive a report at the meeting on 23 November 2017 regarding site specific planning proposals being considered as part of the RLUS including at 74 Charltons Road, Federal*”.

Council at its 28 November 2017 extra ordinary Meeting resolved (in part) to:

25 “2 *Defer consideration of Planning Proposals concerning 74 Charlton’s Road, Federal until site visits have been arranged.*”

Councillors undertook a site inspection on 17 April 2018.

30 This report presents a summary of the relevant information in response to item ‘2’ of the above resolution, and recommends that the planning proposal not proceed any further.

NOTE TO COUNCILLORS:

35 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council’s adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That Council:

1. **Resolve not to proceed any further with the Planning Proposal contained in Attachment 1 to this report, as it does not satisfy the Rural Land Use Strategy criteria for future rural lifestyle living opportunities or accord with the State/regional policy framework (namely the North Coast Regional Plan and s117 Ministerial Direction 5.3).**
2. **Notify the applicant of Council’s decision not to proceed and their opportunity to request the relevant Planning Panel to review council’s decision within 42 days of being notified.**

40 **Attachments:**

- 1 Copy of Planning Proposal 74 Charltons Road Federal, E2017/103100
- 2 Letter to applicant re Planning Proposal 74 Charltons Road Federal, E2018/22866
- 3 Form of Special Disclosure of Precinary Interest, E2012/2815

Report

Council at its 26 October 2017 Ordinary Meeting considered a report on the draft Rural Land Use Strategy and resolved the following:

Resolution 17-504

1. *Note the update on priority actions progressed to date as contained in Table 1 of this report;*
2. *Adopt the proposed amendments to the draft Rural Land Use Strategy (RLUS) and supporting documents, as contained in Table 2 and Table 3 of this report, to enable submission to Department of Planning & Environment;*
3. *Delegate authority to the Director Sustainable Environment & Economy to amend the draft Rural Land Use Strategy in relation to any consequential (non-policy) and/or other minor editorial amendments required for clarity or accuracy, prior to submitting to Department of Planning & Environment for final endorsement; and*
4. *Receive a report at the meeting on 23 November 2017 regarding site specific planning proposals being considered as part of the RLUS including at 74 Charltons Road, Federal.*

Resolution 17-609

Council at its 28 November 2017 extra ordinary Meeting resolved (in part) to:

- “2 *Defer consideration of Planning Proposals concerning 74 Charlton’s Road, Federal until site visits have been arranged.*”

Councillors undertook a site inspection of the subject land on 17 April 2018.

This report presents a summary of the relevant information in response to item ‘2’ of the above resolution.

Background

Council at the 8 August 2013 meeting resolved (**Res. 13-388**) to include six properties on the Byron LEP 2014 Multiple Occupancy and Community Title Map. Only one property was supported for inclusion on the Map by the Minister for Planning & Environment’s delegate when the LEP was gazetted.

The then Director Environment and Planning wrote to the remaining five property owners to advise them of their options as to how the following properties could progress towards a rural multiple occupancy development. At the time two options were provided:

- be considered during preparation of Council’s Rural Land Use Strategy; or
- prepare a planning proposal to amend the Byron LEP 2014 ahead of Council completing the Rural Land Use Strategy.

Council subsequently received a planning proposal for Lot 11 DP 1039847, 74 Charlton’s Road, Federal.

The site is shown in Figure 1 below.

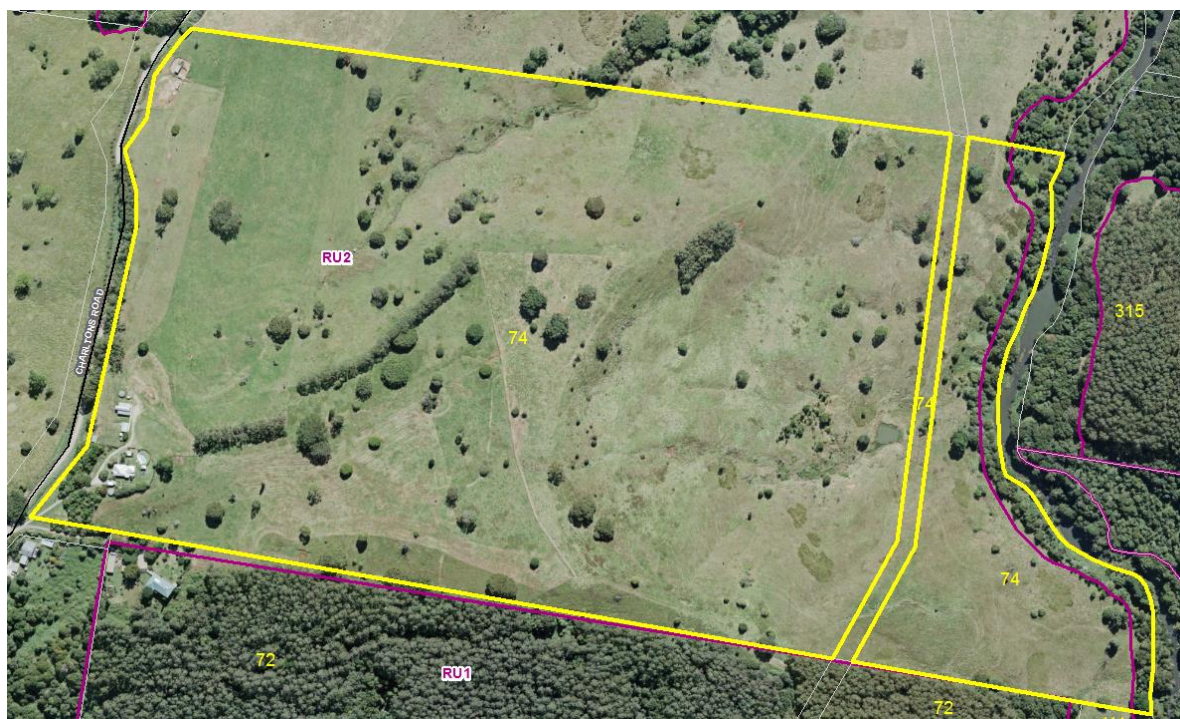


Figure 1: Lot 11 DP 1039847, 74 Charlton's Road, Federal

A copy of the planning proposal and supporting information is contained in Attachment 1 ('Charltons Road').

As the timing of the planning proposal received coincided with preparation of a new Rural Land Use Strategy (RLUS), the applicant was sent a letter advising that the planning proposal would now be considered as part of the strategy process. Specifically, the area would be “assessed against the site selection criteria being developed as part of this wider land use strategy review. This will determine if the site has merit to be zoned for rural settlement purposes.” A copy of the letter sent to the applicant is contained in Attachment 2.

This is consistent with **Resolution 16-286** relating to other sites considered in Report No 13.11 - Request for an Early Implementation Program to supplement Council's Rural Lands Strategy Initiative, in which Council resolved:

Resolution 16-286

“Resolved that Council not support the “Early Implementation Program to supplement Council's Rural Land Use Strategy Initiative and instead consider these properties in the Byron Rural Land Use Strategy now under preparation.”

Because the applicant was advised that the planning proposal would now be assessed under the RLUS framework, it was not intended at the time to have it separately determined by Council. Instead the more detailed site information contained in the planning proposal would be considered against the RLUS policy directions and site selection criteria, with any final Council decision to coincide with adoption of the RLUS.

The applicant took the opportunity to make further submissions during the RLUS exhibition process.

Assessment against site selection criteria in Rural Land Use Strategy (as adopted)

Table 1 below shows the relevant criteria applied in assessing the site for 'future rural lifestyle living opportunities' in the adopted Rural Land Use Strategy.

Table 1 – RLUS criteria for identifying 'future rural lifestyle living opportunities'

Criteria	74 Charltons Road, Federal
i) situated west of the Pacific Highway (undeveloped sites only) AND within a 5 km radius of a town with a high school; and	✗ Outside 5km service catchments of Mullumbimby & Byron Bay
ii) not identified in a draft or adopted strategy for future urban purposes, or for future village / urban development in this strategy; and	✓
iii) contains at least 10ha of unconstrained land AND does not require access through constrained land, as identified in Table 1 of the Site Suitability Criteria and Mapping Methodology; and	✗ No unconstrained land due to the following: – regionally significant farmland (entire site) – slope > 25% (part of site)
iv) can be adequately serviced by existing or committed road infrastructure at a standard suitable for the predicted level and type of traffic resulting from development, at no cost to the wider community	✗ Located outside 5km major service catchment and in an area that cannot be serviced adequately by existing or committed road infrastructure.

✓ = satisfies criteria

✗ = does not satisfy criteria

In summary, the site neither satisfies the RLUS criteria for *future rural lifestyle living opportunities* nor accords with the State/regional policy framework (namely the North Coast Regional Plan and s117 Ministerial Direction 5.3 - Farmland of State and Regional Significance on the NSW Far North Coast). It is therefore recommend that the planning proposal not proceed any further.

Site visit

In accordance with **Res 17-609** a councillor site visit was conducted on 17 April 2018.

Financial Implications

The cost of assessing this planning proposal as part of the Rural Land Use Strategy process has been met by Council.

Statutory and Policy Compliance Implications

The Rural Land Use Strategy is consistent with the relevant Commonwealth, State and Regional policy frameworks.

Opportunity for Applicant to request a pre-Gateway review

The *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) requires councils to notify a proponent when the council decides not to prepare a planning proposal. The proponent then has 42 days from notification to request the relevant Planning Panel to review council's decision.

Accordingly the applicant should be notified of Council's decision not to proceed with their respective planning proposal, as recommended in this report.