



IRF23/3162

Gateway determination report – PP-2021-5766

To permit a dual occupancy (detached) with
development consent at Lot 5 DP 585928, 55
Settlement Road, Main Arm

January 24

Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal – Pre Gateway Version #1 (September 2021)
Planning report to Ordinary Council Meeting (October 2024)
Minutes of Ordinary Council Meeting (October 2024)
Preliminary Site Contamination Report (January 2022)
Ecological Assessment (June 2024)
Bush Fire Assessment Report (July 2024)
On-site sewage management system review (January 2022)
Land use conflict risk assessment (January 2022)
Traffic safety assessment (September 2021)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Byron Shire
PPA	Byron Shire Council
NAME	Permit a dual occupancy (detached) at Lot 5 DP 585928, 55 Settlement Road, Main Arm (2 homes)
NUMBER	PP-2021-5766
LEP TO BE AMENDED	Byron Local Environmental Plan 2014
ADDRESS	55 Settlement Road, Main Arm
DESCRIPTION	Lot 5 DP 585928
RECEIVED	23/11/2024
FILE NO.	IRF23/3162
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objective of the planning proposal is to permit a dual occupancy (detached) with development consent on Lot 5 DP 585928, 55 Settlement Road, Main Arm.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. However, it is noted that while Council's planning proposal references a dual occupancy (detached), the supporting information references a single dwelling house only. To address this issue, the supporting information should be modified to reference a dual occupancy (detached) prior to agency and community consultation. Conditions are included on the Gateway determination in this regard.

1.3 Explanation of provisions

The planning proposal seeks to amend Part 6 'Additional local provisions' of the Byron LEP 2014 to permit a dual occupancy (detached) with development consent on Lot 5 DP 585928, 55 Settlement Road, Main Arm.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject land is legally described as Lot 5 DP 585927 and is known as 55 Settlement Road, Main Arm (**Figure 1**). The land is 24.43 hectares in area.

Historically, Lot 5 was part of a larger rural land holding which was subdivided resulting in the current lot configuration. The planning proposal indicates that the subject site was not allocated a dwelling entitlement at the time of its registration in 1976. The site is adjoined to the north, west and east by small rural lifestyle lots and is adjoined to the south by a multiple occupancy. The land has frontage to Settlement Road along the northern boundary of its western portion.



Figure 1 Subject site (source: Planning Proposal)

The land contains an existing unapproved dual occupancy (detached) which is subject to this planning proposal and outbuildings. The proposal states that aerial photography shows that one of the dwellings has existed since at least 1997, while the other has existed since at least 2009.

The subject land is bushfire prone (**Figure 2**). The site is significantly vegetated, however there are cleared and managed areas surrounding the existing dwellings, sheds and access roads.

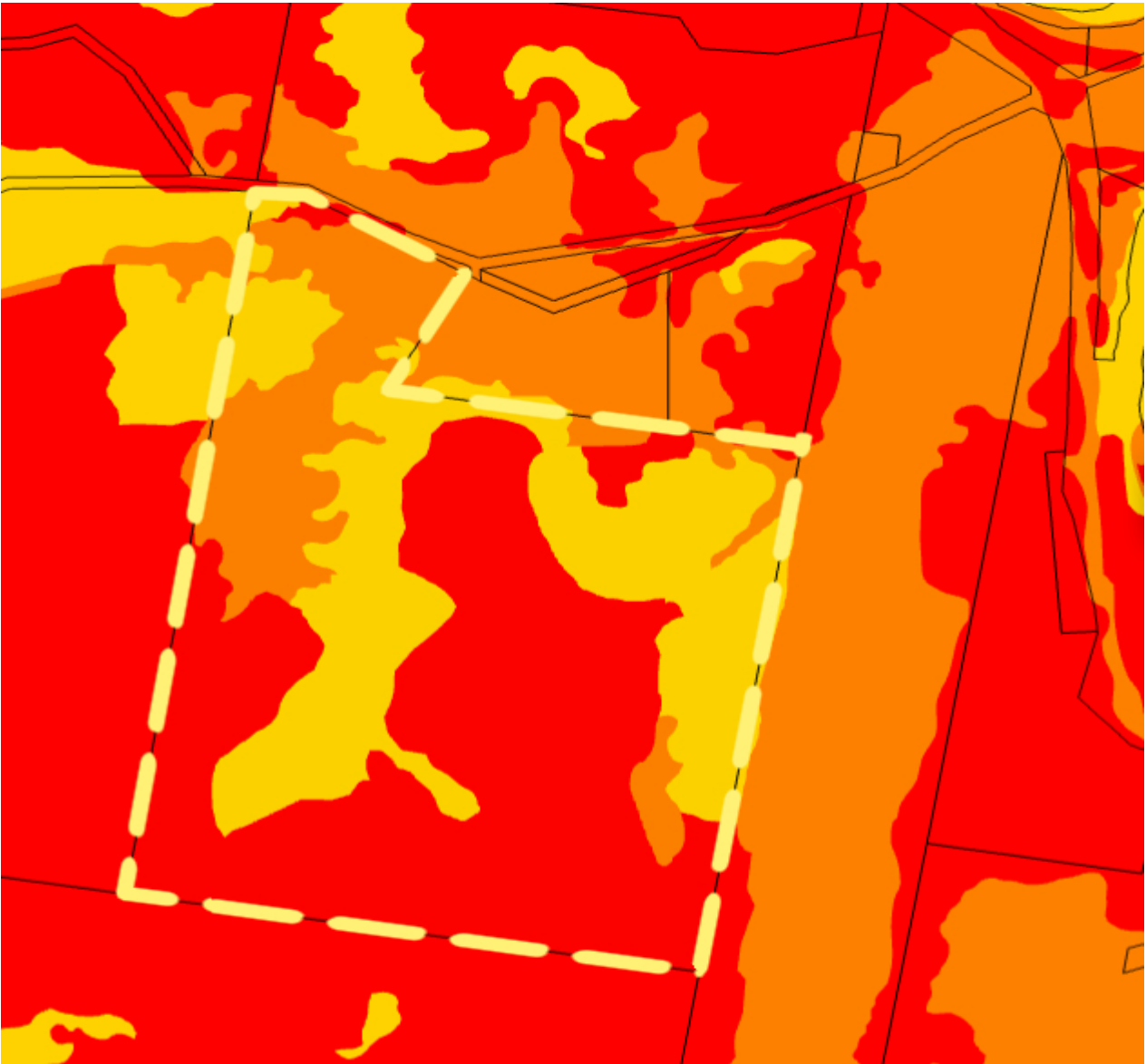


Figure 2 Bushfire mapping (source: NSW Planning Portal Spatial Viewer)

The site includes some mapped High Environmental Value Vegetation (**Figure 3**), identified within the ecological assessment as subtropical rainforest. This vegetation is located in close proximity to one of the existing dwellings. The southern portion of the site is also mapped as containing Biodiversity Values (**Figure 4**).

The Bushfire and Ecology reports submitted with the planning proposal demonstrate that the establishment of required Asset Protection Zones to comply with Planning for Bushfire Protection 2019 will not have a significant ecological impact. However, these assessments do not reference the second dwelling house or vehicle access upgrades. These reports are required to be updated prior to agency and community consultation.

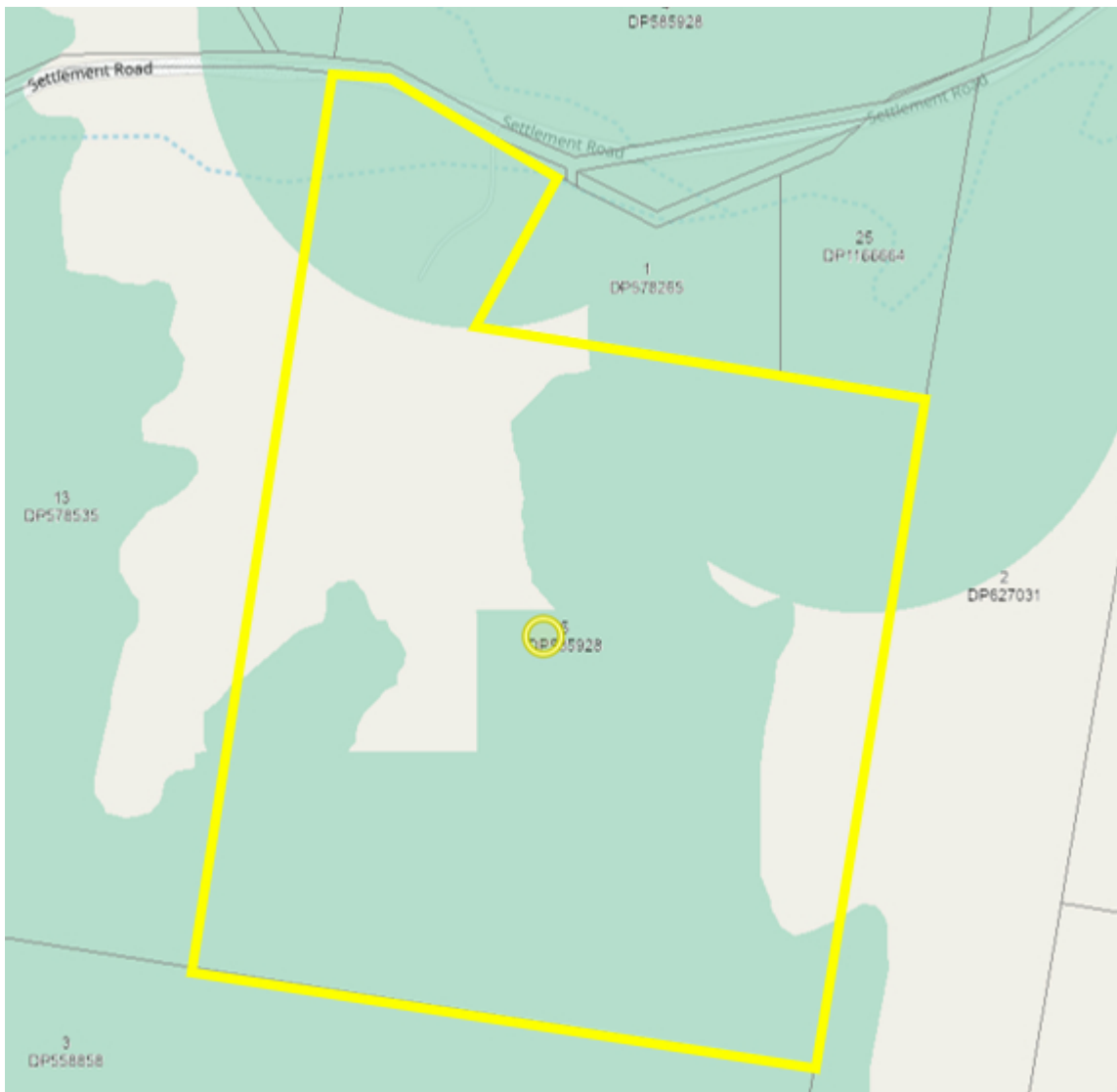


Figure 3 High Environmental Value (HEV) land (source: Northern Region Viewer)

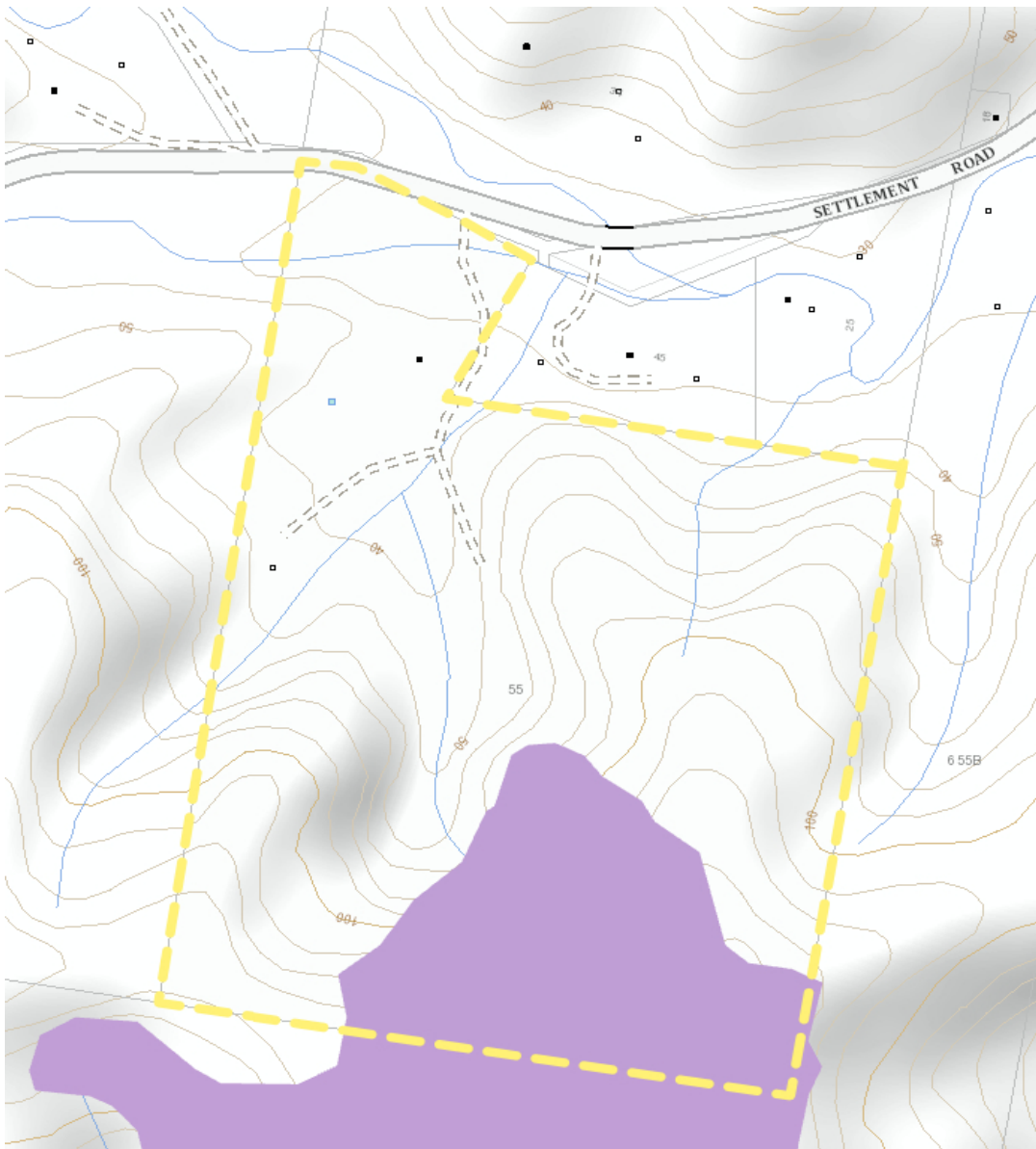


Figure 4 Biodiversity Values (BV) land (source: NSW Planning Portal Spatial Viewer)

The land is zoned RU2 Rural Landscape and C2 Environmental Conservation under the Byron LEP 2014 (**Figure 5**). The existing dual occupancy (detached) is entirely located on land zoned RU2. It is noted the planning proposal refers to zone R2 in error. A condition is included in the Gateway determination requiring correction to RU2 Rural Landscape.

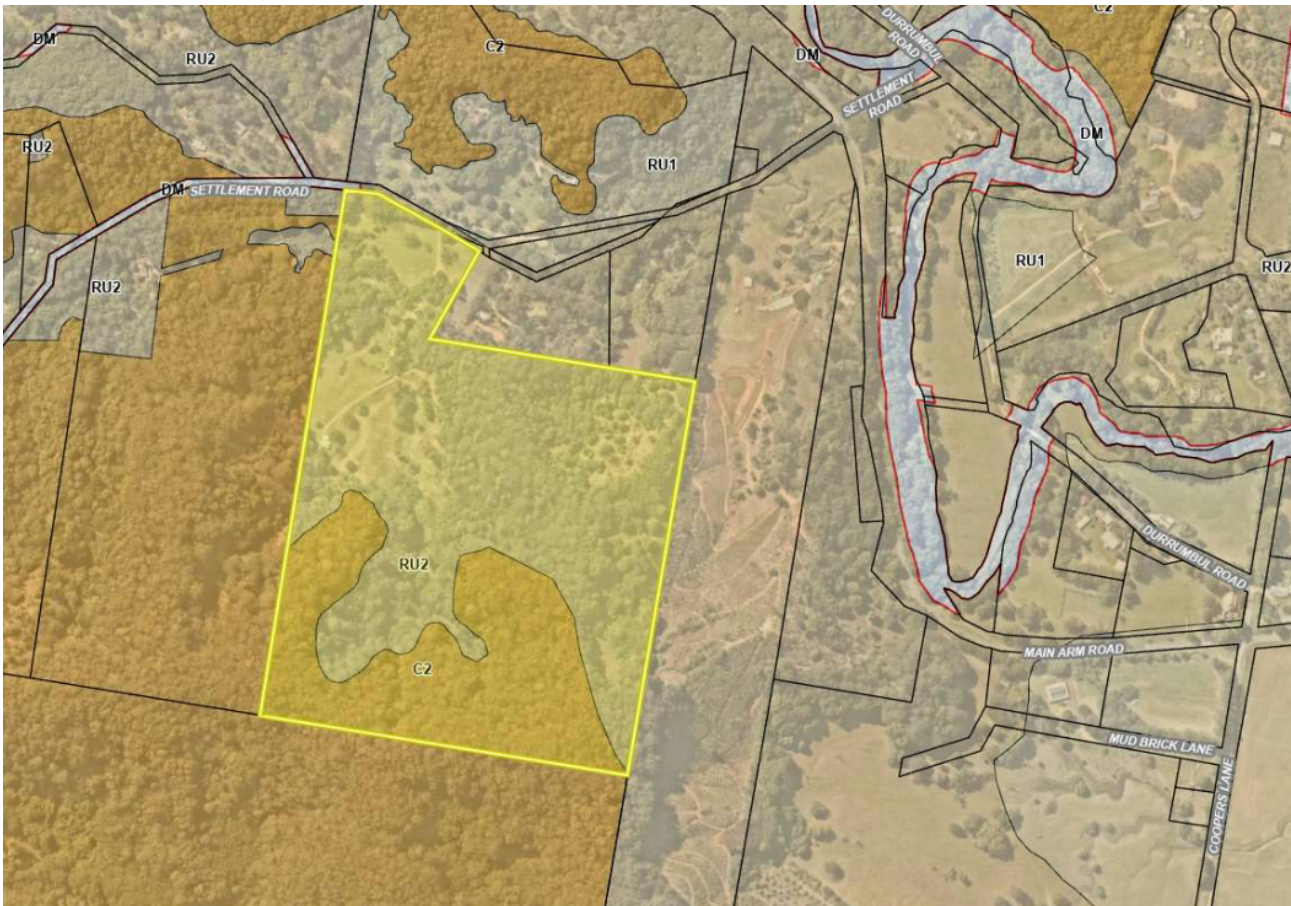


Figure 5 Land zoning (source: Planning Proposal)

1.5 Mapping

There is no amendment to mapping required as a result of the planning proposal.

2 Need for the planning proposal

It is considered that the proposal is the best means of obtaining development consent for the existing unauthorised dual occupancy (detached). Lodgement of the planning proposal is consistent with Council's process which provides that where land does not have a dwelling entitlement and contains an existing unapproved dual occupancy, a planning proposal may be submitted seeking to amend the LEP.

It is noted that a development application could also be lodged with Council seeking consent for the existing dwellings accompanied by a variation request in accordance with Clause 4.6 of the Byron LEP 2014 even if this proposal is not supported by the Department.

The proposal complies with the intent of the Byron Shire Rural Land Use Strategy and permits a site-specific assessment of the suitability of the subject land to support the existing dwellings in perpetuity.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of

the North Coast Regional Plan 2041.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 1 – Provide well located homes to meet demand.	The proposal is consistent with this objective providing for a dual occupancy (detached) within close proximity to existing infrastructure and services.
Objective 3 – Protect regional biodiversity and areas of high environmental value	<p>The site is mapped as containing potential High Environmental Value (HEV). The proposal has been supported by an ecological assessment; however this report references the northern dwelling house only.</p> <p>Although the proposal only seeks to permit an existing dual occupancy (detached), it is appropriate that the ecological assessment be updated to reflect the presence of both dwellings, including the establishment of associated Asset Protection Zones and consider the required driveway and internal road access works. Conditions are included on the Gateway determination in this regard.</p> <p>Consistency with this objective will remain unresolved until the Ecological Assessment has been updated.</p>
Objective 4 – Understand, celebrate and integrate Aboriginal culture	<p>The proposal indicates that the use of the land for a dual occupancy (detached) is not considered likely to impact on areas of Aboriginal cultural heritage.</p> <p>However, it is recommended that prior to agency and community consultation, the planning proposal be updated to include further discussion of Aboriginal cultural heritage, including an AHIMS search.</p> <p>The proposal indicates that consultation with Tweed Byron LALC and Arakwal Corporation will be undertaken and this is reaffirmed as a condition of the Gateway determination.</p> <p>Until the proposal has been updated and consultation with these organisations undertaken, consistency with this objective will remain unresolved.</p>
Objective 5 – Manage and improve resilience to shocks and stresses, natural hazards and climate change	<p>The subject land is bushfire prone. The proposal has been supported by a bushfire assessment confirming an Asset Protection Zones can be established to comply with Planning for Bushfire Protection 2019. However, this assessment relates to the northern dwelling only and the report is required to be updated to include an assessment of both dwellings. The proposal also requires consultation with the NSW Rural Fire Service in accordance with Ministerial Direction 4.3. Conditions are included on the Gateway determination in this regard.</p> <p>The proposal indicates that existing structures on the site are located above the PMF level, however Settlement Road and the first 60 metres of internal road access would be inundated. Therefore, consultation with the State Emergency Service (SES) is considered appropriate.</p> <p>Until consultation with these agencies has been undertaken, consistency with this objective will remain unresolved.</p>
Objective 8 – Support the productivity of	The proposal is not anticipated to result in adverse impacts on agricultural land. The site is not identified as containing important farmland. A Land Use Conflict Risk Assessment (LUCRA) has been prepared in support of the proposal and does not

agricultural land	identify any issues in formalising the existing use. However, it is recommended the supporting documentation be updated to reflect both dwellings.
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3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Byron Shire Local Strategic Planning Statement (LSPS) 2020	<p>The LSPS was adopted by Council at the Ordinary (Planning) Meeting on 18 June 2020. The proposal is consistent with land use priority 3 to support housing diversity and affordability with housing growth in the right locations. The LSPS advocates for the maintenance of Byron's diverse community and social cohesion to support the Shire's social and economic vitality. The LSPS identifies a reliable future supply of housing for a range of incomes, lifestyle choices, household types and life stages as a critical pathway in achieving this outcome.</p> <p>The planning proposal provides Council an opportunity to consider and legalise an existing dual occupancy (detached) and as such, it is considered that the proposal will contribute to the achievement of this planning priority.</p>
Byron Shire Rural Land Use Strategy 2017	<p>Council's Rural Land Use Strategy was approved by the Department in June 2018. Section 3.3.1 relates to unauthorised dwelling houses. As referenced in the Strategy, Council's Enforcement Policy provides that Council will consider the impact of an unapproved activity on amenity or harm to the environment. If action is needed, Council will ensure that it is reasonable and proportionate to the level of harm or damage caused by the unapproved activity. Strategy Action No. 22 recommends exploring a strategic framework to resolve dwelling entitlement issues.</p> <p>Council subsequently resolved on 18 June 2020 to allow planning proposals for land with unauthorised dwellings to seek a dwelling entitlement if the unauthorised use does not present an unacceptable risk to human health or the environment.</p> <p>Council has undertaken a site-specific assessment of the proposal in accordance with its policy to determine whether the land is suitable for the existing dwelling, which is a direct result of Action 22 of the Rural Land Use Strategy and provides the strategic basis for the planning proposal.</p>
Byron Shire Community Strategic Plan (CSP) 2032	<p>The planning proposal is not inconsistent with objective 4: <i>Ethical Growth: We manage growth and change responsibly</i>, and strategy 4.2: <i>Enable housing diversity and support people experiencing housing insecurity</i> of Council's CSP.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
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1.1 Implementation of regional Plans	Unresolved	<p>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. The proposal is potentially inconsistent with the North Coast Regional Plan 2041 as it could permit an intensification of development on land that is affected by hazards and/or Aboriginal objects or places. It is considered appropriate that consistency with this direction remain unresolved until consultation is undertaken with SES, RFS, and Tweed Byron LALCs and the Arakwal Corporation.</p>
1.4 Site Specific Provisions	Justifiably inconsistent	<p>This Direction applies as the planning proposal seeks to allow a particular development to be carried out, being the use of an existing unauthorised dual occupancy (detached) development.</p> <p>The proposal is inconsistent with this Direction as it contains drawings that show details of the proposed development. However, as the proposal will only allow the land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the Byron LEP 2014, the inconsistency is considered to be of minor significance.</p>
3.1 Conservation Zones	Unresolved	<p>This Direction applies as part of the land is zoned C2 Environmental Conservation and contains potential HEV. The proposal indicates that the existing dual occupancy (detached) is located entirely on land zoned RU2 and is a minimum distance of 55 metres from land zoned C2.</p> <p>The site is mapped as containing potential HEV and the proposal has been supported by an ecological assessment. However, this report references the northern-most dwelling house only.</p> <p>As discussed in section 3.1 of this report, the ecological assessment is required to be updated to address parts of the proposed development which have been omitted. Consistency with this Direction remains unresolved until the ecological assessment has been updated.</p>
3.2 Heritage Conservation	Unresolved	<p>The planning proposal is inconsistent with this Direction as it does not address the protection and conservation of Aboriginal cultural heritage on the site.</p> <p>Prior to agency and community consultation, the planning proposal is to be updated to include</p>

		<p>further discussion of Aboriginal cultural heritage.</p> <p>While any inconsistency is considered likely to be minor as the planning proposal does not alter the existing heritage conservation measures on the subject land, it is considered appropriate that consistency with this direction remain unresolved until further discussion has been included in the proposal and consultation is undertaken with Tweed Byron LALC and the Arakwal Corporation</p>
4.1 Flooding	Unresolved	<p>This Direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and that potential flood impacts are considered.</p> <p>Flood modelling information available to Council indicates that the majority of the site (including the location of the existing dwellings) is not inundated during the PMF. However, minor and localised flooding is experienced along low-lying sections of Settlement Road and Main Arm Road during a major flooding event up to the PMF.</p> <p>Prior to exhibition, Council is to include additional detail in the planning proposal such as a map that demonstrates inundation of the site and further details regarding the compromised access (including the type of flood event that will affect the access as well as the duration that the road is inaccessible).</p> <p>Pending inclusion of the subject land in the LEP, the landowner will be required to lodge a development application seeking consent for use of the existing structures as a dual occupancy (detached) prior to an Occupation Certificate being issued. Any future development application will be required to satisfy the provisions of clause 5.21 'Flood planning' and 5.2 'Special flood considerations'.</p> <p>As the site of the existing dwellings is located above the PMF consultation with BCD – Floodplain Management is not considered necessary in this instance. However, consultation with the SES is considered appropriate due to the potentially compromised access to the dwellings during a flood event. Until consultation has been undertaken, the direction remains unresolved.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>This Direction is relevant to the proposal as the site is mapped as bushfire prone land. The Direction requires that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS).</p>

		<p>The proposal has been supported by a bushfire assessment confirming an Asset Protection Zones can be established to comply with Planning for Bushfire Protection 2019. However, this assessment relates to the northern dwelling only and the report is required to be updated to include an assessment of both dwellings.</p> <p>Until the bushfire assessment has been updated and consultation has occurred, consistency with this Direction remains unresolved.</p>
4.4 Remediation of Contaminated Land	Unresolved	<p>The objective if this Direction is to reduce the risk of harm to human health and the environment as a consequence of contamination.</p> <p>Although the proposal indicates the site is suitable for the intended land use and further assessment will occur at the development application stage, it is unclear if the assessment extends to the site of the second dwelling on the land.</p> <p>The preliminary contaminated land assessment is to be updated as discussed previously in this report. Until the assessment has been updated and consultation has occurred, consistency with this Direction remains unresolved.</p>
9.2 Rural Lands	Justifiably inconsistent	<p>This direction aims to (inter alia) protect the agricultural production value of rural land and facilitate the orderly and economic use and development of rural land for rural and related purposes. This direction requires that a planning proposal:</p> <ul style="list-style-type: none"> • be consistent with any applicable regional plan. As consistency with direction 1.1 is currently unresolved, consistency with this direction will also remain unresolved until agency consultation is undertaken. • consider the significance of agriculture and primary production to the State and rural communities. The land does not contain any regionally or state significant farmland. The planning proposal seeks to regularise an existing use and as such is not expected to impact the agricultural viability of the allotment or cause land use conflict to areas if important farmland. • identifies and protects environmental values including biodiversity and the protection of native vegetation and cultural heritage. Consultation with Tweed Byron LALCs and the Arakwal Corporation will ensure that the planning

proposal complies with the intent of this direction.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Biodiversity	<p>The site is mapped as containing potential HEV and the proposal has been supported by an ecological assessment.</p> <p>The site contains the following native vegetation communities of varying degrees of condition:</p> <ul style="list-style-type: none"> • PCT 3002: Lower Richmond Hills Dry-Subtropical Rainforest; • PCT 3148: Far North Brush Box-Walnut Wet Forest; and • PCT 3011: Far North Coast Lowland Subtropical Rainforest. <p>The proposal would involve the removal of one small Creek Sandpaper Fig (<i>Ficus coronata</i>), several small Camphor laurel (<i>Cinnamomum camphora</i>) saplings and the continued vegetation management of the exotic dominated ground layer to establish the required Asset Protection Zone (APZ).</p> <p>However, as mentioned previously in this report, the supporting information (including the ecological assessment) references a single dwelling house and does not consider required driveway and internal road access works outlined in the submitted Traffic Safety Assessment and Bushfire Assessment. To address this issue, the supporting information should be revised to reference the dual occupancy (detached) and vehicle access works prior to agency and community consultation. Conditions are included on the Gateway determination in this regard.</p>
Land contamination	<p>The report on preliminary site contamination submitted in support of the proposal entitled states that soil sampling results for heavy metals and organochlorines/organophosphates were below the Health Investigation Levels (HIL) in accordance with NEPM (2013).</p> <p>Although the proposal indicates that the site is considered to be suitable for the intended land use and further assessment will occur at the development application stage, it is unclear if the assessment extends to the site of the second dwelling on the land. The preliminary contaminated land assessment is to be updated prior to agency and community consultation to confirm the suitability of the proposal. Conditions are included on the Gateway determination in this regard.</p>

Bushfire	<p>The land is mapped as bush fire prone land and contains vegetation mapped as Category 1 (high risk), Category 2 (lower risk) and Category 3 (medium risk). The existing dwellings are located within Category 3 land, with the hazard identified as grassland.</p> <p>A bushfire assessment report has been submitted in relation to the northern-most dwelling only.</p> <p>The Bushfire assessment has demonstrated that an Asset Protection Zone can be established and the required construction standards can reasonably be achieved. However, the existing one-bedroom dwelling has not been assessed. A condition is imposed on the Gateway determination requiring the supporting information (which includes the bushfire assessment) to reflect a dual occupancy development.</p> <p>The proposal indicates that Council staff will consult with the Commissioner of the NSW Rural Fire Service. This requirement also forms part of the conditions of the Gateway determination.</p>
Flooding	<p>The subject land is not identified as flood prone. However, minor and localised flooding is experienced along low-lying sections of Settlement Road and Main Arm Road during a major flooding event up to the Probable Maximum Flood (PMF).</p> <p>The proposal indicates that existing structures on the site are located above the PMF level, however Settlement Road and the first 60 metres of internal road access would be inundated.</p> <p>Prior to exhibition, it is recommended that Council include additional detail in the planning proposal such as a map that demonstrates inundation of the site and further details regarding the compromised access (including the type of flood event that will affect the access as well as the duration that the road is inaccessible).</p> <p>Consultation with the SES is considered appropriate due to the potentially compromised access to the dwellings during a flood event.</p>

4.2 Social and economic

The planning proposal seeks to regularise an existing use which is consistent with land uses in proximity. The site is not classified as regional or state significant farmland and there are no land use conflicts anticipated. However, flooding of parts of the site and the access road could create social and economic implications for future residents and emergency services. While Council advises that the dwelling sites are above the PMF, the land may become isolated from any nearby urban centre in a range of flood events.

Consultation with the NSW State Emergency Service will be required to determine whether the specific characteristics of the site and access arrangements are sufficient to enable safe occupation of the site for residential purposes in perpetuity.

Consultation with the Tweed Byron LALC and Arakwal Corporation will also be required in relation to matters of Aboriginal cultural heritage.

4.3 Infrastructure

The planning proposal indicates the existing dual occupancy is serviced by electricity, water and onsite sewage disposal, and that vehicular access is available via Settlement Road.

The submitted bushfire and traffic safety assessments include recommendations to upgrade the driveway access and internal driveway works and potential additional upgrades to Settlement Road, including passing bays. The planning proposal does not discuss the requirements identified

by these reports and must be updated prior to consultation.

A review of the existing on-site sewage management (OSSM) systems was conducted in January 2022. The report concluded the following:

- the site is capable of assimilating treating effluent from the existing farm shed and 3 bedroom dwelling;
- the existing system servicing the farm shed is operating satisfactorily and suitable to service the farm shed; and
- the existing system servicing the 3 bedroom dwelling is to be decommissioned and replaced with a system to be located free of existing gullies and intermittent water courses.

It is understood the farm shed now forms part of the dual occupancy (detached). On-site sewage management will be considered in detail as part of a future development application.

The landowner has offered to enter into a planning agreement with Council to pay a monetary contribution equivalent to the amount levied for a standard 3 bedroom dwelling. This contribution is towards the cost of community local infrastructure and services, which Council cannot collect retrospectively under its Contributions Plan or section 7.11 of the Environmental Planning and Assessment Act 1979. The planning agreement will be drafted and exhibited alongside this planning proposal.

5 Consultation

5.1 Community

Council proposes a community consultation in accordance with the Gateway determination.

The planning proposal is categorised as a standard proposal under the LEP Making Guidelines (August 2024). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

Council has nominated the following public agencies to be consulted about the planning proposal:

- NSW Rural Fire Service
- Tweed Byron LALC
- Arakwal Corporation

It is also recommended that consultation be undertaken with:

- NSW State Emergency Service

All agencies should be given 30 working days to comment. A condition to this effect has been included in the Gateway determination.

6 Timeframe

Council proposes a nine month time frame to complete the LEP (i.e. to October 2024).

The LEP Plan Making Guidelines (August 2024) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard.

The Department recommends an LEP completion within nine months of the Gateway determination in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site/planning proposal relates to local planning matters that are not considered to be contentious in nature, the Department recommends that Council be authorised to be the local plan making authority for this proposal.

It is also noted that from 1 November 2024 Council no longer requires the Secretary's concurrence to clause 4.6 variations and will be able to legalise the existing dwellings through a development application process, regardless of the outcome of this planning proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal aligns with the planning priorities and actions of the Byron LSPS;
- the proposal is consistent with the Department endorsed Byron Shire Rural Land Use Strategy in enabling a site-specific assessment of the suitability of the land to support the existing dual occupancy in perpetuity; and
- continued use of the subject site for a dual occupancy is not expected to result in the potential for land use conflict with surrounding properties, or likelihood of adverse environmental impacts.

Based on the assessment outlined in this report:

- a) the proposal must be updated to:
 - correct the reference to zone R2 on page 3;
 - include additional discussion of Aboriginal cultural heritage, including a recent AHIMS search;
 - reflect the required upgrades to the driveway access, internal driveway and Settlement Road outlined in the submitted Traffic Safety Assessment and Bushfire Assessment;
 - include additional information regarding flooding, such as a map that illustrates inundation of the site and further details regarding access (including the type of flood event that will affect the access as well as the duration that the road is inaccessible); and
 - address the outcomes and recommendations of the updated reports listed in b) and c) below.
- b) the following reports must be amended include an assessment of both dwellings on the land:
 - Preliminary Site Contamination Report
 - On-Site Wastewater Management System Review
 - Traffic Safety Assessment
 - Land Use Conflict Risk Assessment
 - Ecological Assessment
 - Bush Fire Assessment Report
- c) the Ecological Assessment must be amended to address the required upgrades to the driveway access, internal driveway and Settlement Road outlined in the submitted Traffic Safety Assessment and Bushfire Assessment.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.4 Site Specific Provisions and 9.2 Rural Lands are minor or justified; and
- Note that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans, 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.1 Flooding, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to agency and community consultation:

a) the proposal must be updated to:

- correct the reference to zone R2 on page 3;
- include additional discussion of Aboriginal cultural heritage, including a recent AHIMS search; and
- reflect the required upgrades to the driveway access, internal driveway and Settlement Road outlined in the submitted Traffic Safety Assessment and Bushfire Assessment;
- include additional information regarding flooding, such as a map that illustrates inundation of the site and further details regarding access (including the type of flood event that will affect the access as well as the duration that the road is inaccessible); and
- address the outcomes and recommendations of the updated reports required by b) and c) below.

b) the following reports are to be amended to include an assessment of both dwellings on the land :

- Preliminary Site Contamination Report
- On-Site Wastewater Management System Review
- Traffic Safety Assessment
- Land Use Conflict Risk Assessment
- Ecological Assessment
- Bush Fire Assessment Report

c) the Ecological Assessment must be amended to address the required upgrades to the driveway access, internal driveway and Settlement Road outlined in the submitted Traffic Safety Assessment and Bushfire Assessment.

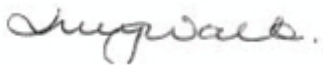
2. Consultation is required with the following public authorities / organisations:

- NSW Rural Fire Service
- NSW State Emergency Service
- Tweed Byron Local Aboriginal Land Council
- Arakwal Corporation

3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

4. Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority.

5. The LEP should be completed within 9 months of the Gateway determination.



18.01.24

(Signature)

(Date)

Lucy Walker

A/Director, Northern Region

Assessment officer

Georgia Weallans, Planning Officer

5778 1413