

COUNCIL SUPPLEMENTARY ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-420 – DA10.2025.156.1
PROPOSAL	Mixed use development comprising on-grade parking, commercial premises, pocket park and back of house facilities on the ground level; 37 shop top housing apartments, a landscaped podium, a swimming pool and resident amenities on level 1 and 41 shop top housing apartments on level 2 and subdivision of Penny Lane from Lot 1 DP271119 for integration with Lot 14 DP271119
ADDRESS	Lot 1 DP 271119, No. 5 Penny Lane, Byron Bay. Lot 14 DP 271119, No. 5 Penny Lane, Byron Bay.
APPLICANT	Planners North
OWNER	Bayshore Development Pty Ltd Community Association DP271119
DA LODGEMENT DATE	27 May 2025
APPLICATION TYPE	Integrated Development Application – Section 100B Rural Fires Act 1997
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as it has an estimated development cost exceeding \$30 million.
EDC	\$57,100, 282
CLAUSE 4.6 REQUESTS	Clause 4.3 Height of buildings – Byron Local Environmental Plan 2014. Clause 4.4 Floor space ratio – Byron Local Environmental Plan 2014.
KEY SEPP/LEP	State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Biodiversity and Conservation) 2021 Byron Local Environmental Plan 2014
TOTAL & UNIQUE SUBMISSIONS KEY	2 unique submissions in total.

ISSUES IN SUBMISSIONS	Key Issues: overshadowing and car parking.
DOCUMENTS SUBMITTED FOR CONSIDERATION	The following supplementary documents were submitted and assessed: 1. Revised stormwater plans and covering letter by Ardill Payne and Partners, numbered SK07 Issue F and SK10 Issue B, dated 14 June 2026 and 13 June 2026. 2. Render of Wallum Place frontage (undated). 3. Detailed landscaping plan by LARC, Issue C, dated 14 May 2026. 4. CPTED Plans and Cover Letter – SE Walkway Plan by Creative Capital, No. 2001 Rev. B, undated, and GF Plan by Creative Capital, No. DA986 Rev 05, dated 17 April 2025. 5. Cover letter addressing car parking requirements in the Record of Deferral, by Planners North, dated 18 May 2026. 6. Summary Table – Car Parking Calculation, dated 15 May 2026. 7. Stage 05 Car Parking Layout by Creative Capital, No. 025 Rev. B, undated. 8. Site Wide Car Parking Layout by Creative Capital, No. 026 Rev. B, undated. 9. Letter from Inclusive Places regarding car parking design, dated 15 May 2026. 10. Letter from MDA regarding EV charging infrastructure, dated 12 May 2026.
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (s7.24)	Not applicable
RECOMMENDATION	Approval subject to conditions of consent
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	29 June 2026
PLAN VERSION	As originally submitted
PREPARED BY	Benjamin Grant
DATE OF REPORT	26 June 2026

EXECUTIVE SUMMARY

This development application seeks consent for a mixed-use development within Habitat, an integrated mixed-use precinct located near the intersection of Bayshore Drive and Wallum Place, Byron Bay.

The proposal involves the construction of a three-storey mixed-use building comprising ground-level car parking, commercial and retail tenancies, a landscaped podium with

swimming pool, and 78 shop-top housing units over two levels. The proposal also includes associated development within the wider Habitat complex including a two-lot community title subdivision, demolition and removal of Penny Lane, reconfiguration of shared parking and loading areas, new storage sheds for adjacent terrace houses, and the creation of a small pocket park.

Council prepared an Assessment Report dated 30 March 2026 recommending refusal of the application (Council Assessment Report). The report identified key issues relating to stormwater drainage, landscape design, visual impact, and loss of pedestrian connectivity amongst other matters.

At an online meeting held on 13 April 2026, the Panel deferred its determination and issued a Record of Deferral. The Panel indicated that the application may be capable of support, subject to the submission of additional information. This provided the Applicant with an opportunity to address the issues raised in the Council Assessment Report through amended plans and supporting material.

In response, the Applicant submitted additional information and revised plans on 19 May 2026. This supplementary report considers the additional material and finds that it generally addresses the matters outlined in the Panel's Record of Deferral, subject to the imposition of appropriate conditions of consent.

Recommended draft conditions of consent are included at **Annexure A** of this report.

1. BACKGROUND AND PURPOSE OF REPORT

1.1 Purpose of Report

This supplementary assessment report provides the Northern Region Planning Panel (the Panel) with an assessment of the additional information provided by the Applicant in response to the Record of Deferral dated 17 April 2026.

1.2 Background

The development application was assessed in Council's Assessment Report dated 30 March 2026, which recommended refusal due to several significant planning and engineering issues. The key issues identified were: (1) stormwater drainage, (2) landscape design, (3) loss of pedestrian connectivity, resulting in inconsistency with the Habitat Precinct Plan, and (4) excessive bulk and scale that did not align with the statement of desired future character for Habitat.

An online meeting was held on Monday 13 April 2026 for the Panel to consider the Council Assessment Report. Prior to the meeting, the Applicant provided an amended stormwater concept plan and a written response to various matters raised in the report.

Subsequently, the Panel deferred the matter, pending the submission of additional information to address the issues raised in the Council Assessment Report. The Panel noted that the additional information provided prior to the meeting addressed substantive issues raised in the report and that the application appeared capable of being supported subject to further detailed consideration.

1.3 Amended plans and additional information provided

Following the Panel's deferral, the Applicant provided the following information:

- Revised stormwater plans and covering letter by Ardill Payne and Partners, numbered SK07 Issue F and SK10 Issue B, dated 14 June 2026 and 13 June 2026.
- Render of Wallum Place frontage (undated).
- Detailed landscaping plan by LARC, Issue C, dated 14 June 2026.
- CPTED – South-east Walkway Plan by Creative Capital, No. 2001 Rev. B, undated.
- CPTED – GF Plan by Creative Capital, No. DA986 Rev 05, dated 17 April 2025.
- Summary Table – Car Parking Calculation, dated 15 May 2026.
- Stage 05 Car Parking Layout by Creative Capital, No. 025 Rev. B, undated.
- Site Wide Car Parking Layout by Creative Capital, No. 026 Rev. B, undated.
- Letter from Inclusive Places regarding car parking design, dated 15 May 2026.
- Letter from MDA regarding EV charging infrastructure, dated 12 May 2026.

These plans and reports are further considered in this supplementary assessment report.

1.4 Summary of Panel's Deferral Requirements

The matters to be address by the Applicant as outlined in the Panel's Notice of Deferral dated 17 April 2026 are summarised in **Table 1** and considered further in **Section 3** of this report.

Table 1: Panel Deferral Requirements

Matter	Requirement	Amended Proposal	Resolved
Stormwater	Podium Level		Yes, subject to conditions of consent
	Amended plans to demonstrate that all flows discharged into the vegetated area are adequately retained and infiltrated within the Atlantis Flo-Tank system, with no uncontrolled overflow to adjoining properties or buildings.	Yes. The stormwater system has been redesigned to bypass the podium.	
	Ground Floor		
	Amended design of the North OSD system to provide a volume of 56m ² or greater and a 1 x 100mm orifice outlet.	No, but can be addressed through conditions of consent.	
	A fully detailed design of the controlled overland flow path to cater for the overflow of 96 litres/s and 118 litres/s north and south OSD systems respectively.	Yes. The proposed system meets this requirement.	
	A Geotechnical Report to verify: - The adopted exfiltration rate of 100mm/hr in MUSIC to support the Infiltration System Design. - The depth of the existing groundwater to confirm the minimum separation distance of 1.0m between the base of the infiltration system and the top of the groundwater table.	No, but can be addressed through conditions of consent. The south OSD infiltration system does not achieve a 1m minimum separation distance from the highest seasonal ground water level. Conditions are recommended for an alternative stormwater system to be designed and approved prior to the issue of a construction certificate.	
Urban Design and Landscaping	Detailed landscaping plan, which includes the following: - Appropriate soil profiles for proposed plant species. - Landscaping maintenance plan that outlines the viability and maintainability of podium level landscape including at level 1 on the southeast building façade and demonstrates methods for watering and maintaining mature vegetation and replacing dead/dying vegetation overtime. - Car parking landscape screening treatment and materials along Wallum Place, noting the 2m-4m setback between the site and the	Yes. A detailed landscaping plan has been provided which meets these requirements. An updated CPTED plan has been provided which includes security gates, wall-mounted lighting and CCTV cameras for the SE walkway.	Yes

	road reserve and location of sewer rising main along the boundary with Wallum Place that limits the ability to plant tall tree species or deep-rooted vegetation. Public safety and CPTED resolution of the ground level space between the Porter Street terraces and the southeast building façade.		
Car Parking	Detailed car parking design, including EV charging infrastructure (i.e., conduit and sufficient electrical capacity for future installation). Clarification of car parking requirements including consideration of: - Total car parking requirements. - Requirements under Council's DCP, relevant Australian Standards and Section 1(c) of the Liveable Housing Guidelines. - Car wash facilities refer to prescriptive measure 6 in D1.10.6 of Chapter D1 of BDCP 2014. - Infrastructure for EV car charging refer to prescriptive measures in section B4.2.14 of Chapter B4 of BDCP 2014 and Austroads 2022-Guidelines for Low and Zero Emission Vehicle Charging Infrastructure Installation.	Yes. Updated car parking plans and calculations have been provided demonstrating adequate parking supply, one car wash bay, and the provision of EV-ready car charging infrastructure. A letter was also provided from an access consultant confirming that wider spaces are not necessary for a Class 2 building under the Livable Housing Guide.	Yes, subject to conditions

2. ADDITIONAL INFORMATION AND AMENDMENTS

The additional information provided by the Applicant on 19 May 2026 results in the following minor amendments to the scheme and clarification of certain matters:

- Stormwater system:** An amended stormwater plan has been submitted in which the podium no longer functions as a detention or water quality device. Instead, excess stormwater bypasses the podium and is directed to two underground on-site detention systems that enable infiltration beneath the ground floor car parking area.
- Landscaping:** A detailed landscaping plan has been submitted which alters the podium landscaping design and provides further details of landscaping at the Wallum Place frontage. The podium will now feature three raised planter beds in the central spine of the platform, providing soil depths of up to 1,200mm to support mature vegetation. The remaining podium area will be covered in soil between 300mm and 750mm deep to support a range of low ground covers, succulents, and grasses. Additionally, Garden beds are proposed on the Wallum Place frontage, containing a range of native shrubs, grasses and ferns. The garden beds will partially screen the large ground floor car parking area visible from Wallum Place.

- **CPTED Principles:** An amended CPTED plan has been submitted demonstrating additional safety and security measures. The narrow walkway between the new Stage 5 building and the adjoining Porter Street terraces will be improved through the provision of wall lights, CCTV cameras, and gates which restrict public access to the walkway.
- **Car parking:** An updated car parking plan has been provided which includes a car wash bay located at the eastern end of the ground floor area. A letter has also been provided from an access consultant stating that compliant Silver Level car parking is not required for a Class 2 building under the Liveable Housing Guidelines.
- **EV-ready car parking:** Additional information has been provided confirming that 115 out of 141 car parking spaces will be EV-ready and capable of supporting EV charging infrastructure in the future.

This report considers these amendments, and the application is now referred to as the Amended Proposal.

3. MATTERS FOR CONSIDERATION

Following the Panel's deferral and the submission of additional information, several matters require further detailed consideration which are addressed in further detail below.

3.1 Stormwater system design

3.1.1 Alternative stormwater system design

The amended proposal no longer uses the landscaped podium for stormwater detention and treatment. Roof water will bypass the podium and be directed to two on-site detention (OSD) and infiltration systems beneath the ground floor car park. At podium level, runoff will flow to the central landscaped area, where it will infiltrate into Atlantis flow cells and then discharge via outlet pipes to the ground level OSD system.

At ground level, there are two separate systems: a North OSD system which captures water from the north-east roof catchment and discharges to the existing stormwater drain in Wallum Place, and a South OSD system which captures runoff from the south-west roof catchment and podium and discharges to the internal drainage network within Habitat.

Assessment

The revised stormwater design enables excess runoff to be absorbed on site, reducing discharge to the surrounding drainage network while also achieving water quality targets through a combination of on-site detention and infiltration measures.

However, as discussed later in this report, the southern OSD system cannot be supported in its current form due to insufficient groundwater separation. Further design amendments will be required post-consent to ensure that the system can achieve adequate ground water separation while also meeting Council's stormwater management and quality objectives.

3.1.2 North OSD Capacity

Council's Development Engineer noted that the North OSD system required capacity of at least 56m³ or greater to properly function. The Applicant has not submitted any technical drawings to resolve this issue, instead requesting that it be dealt with using conditions of

consent. The Applicant's engineering consultant states that the top of the tank can simply be increased in height from RL 5.295 to RL 5.4 to achieve the required volume.

Assessment

It is agreed that further technical details on the size and design of the of the North OSD system can be refined post-consent, subject to appropriate conditions of consent.

3.1.3 Controlled Overland Flow Path

A further matter raised in the Record of Deferral was the requirement for a controlled overland flow path to be demonstrated, catering for at least 96 litres/s and 118 litre/s for the north and south OSD systems respectively. Further information has been provided demonstrating that the proposed outlets (2x 300mm and 2 x 375mm) will allow flows of up to 160L/s and 300Ls respectively.

Assessment

The applicant's further information demonstrates that the proposed stormwater outlets have been sufficiently sized to provide flow rates of at least 96 litres/s and 118 litres/s in accordance with the Record of Deferral.

3.1.4 Geotechnical Report and Ground Water Separation

A geotechnical report was requested to confirm that the adopted stormwater exfiltration rate of 100 mm/hr is achievable and that groundwater levels are at least 1 m below the base of the proposed infiltration systems.

In response, the Applicant relies on previous groundwater and geotechnical investigations undertaken for the Habitat development by Douglas Partners (2021) and Australian Soil and Concrete Testing (2013).

With respect to soil permeability, the 2013 ASCT report demonstrates that exfiltration rates of 100 mm/hr are achievable, and these findings have been accepted by Council's Development Engineer.

However, disagreement remains regarding groundwater levels. The Douglas Partners report identified a highest seasonal groundwater level (HSGL) of 4.6 m AHD, which Council has adopted in assessing separation distances for the OSD systems. Council considers that the southern OSD system would provide only 500 mm of separation to groundwater, which is not acceptable from a development engineering perspective.

The Applicant disputes this position, arguing that the 4.6 m AHD HSGL reflects atypical groundwater conditions caused by unusually high rainfall at the time of monitoring. They state that groundwater levels subsequently receded to between approximately 2.8 m and 3.2 m AHD once rainfall conditions normalised.

On this basis, the Applicant maintains that no substantial design changes to the southern OSD system are required. They further contend that, even if higher groundwater levels are assumed, the reduced separation distance remains acceptable, as the proposed filter media is capable of achieving the required water quality targets, as demonstrated through MUSIC modelling.

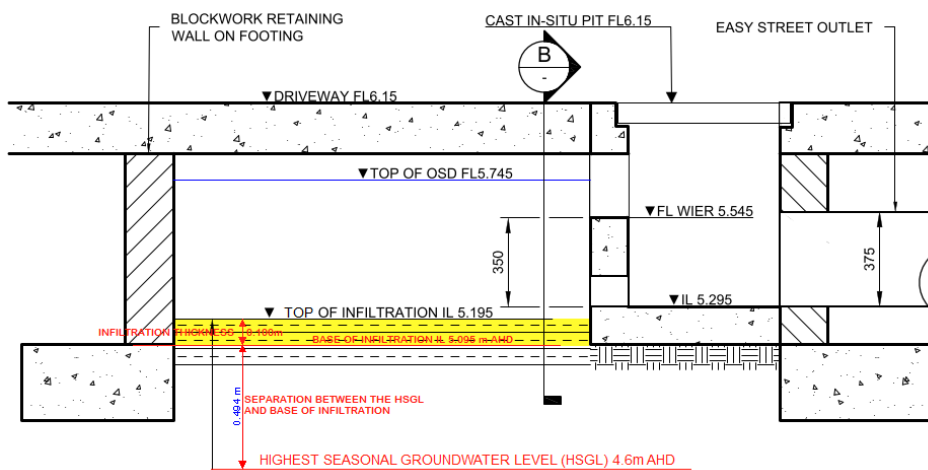


Figure 1: Section of infiltration system showing a 494mm separation distance from HSGL (4.6m AHD).

Assessment

This assessment adopts the more conservative HSGL of 4.6m AHD based on the findings of the 2021 Douglas Partners report. When measured against this value, the current system design is non-compliant with Council's engineering requirements and does not provide adequate separation distance from the highest ground water levels likely to be encountered on the site.

Accordingly, it is recommended that the Southern OSD infiltration system be deleted from the scheme and replaced by a proprietary stormwater treatment device that is appropriate to the site constraints and capable of achieving Council's adopted stormwater quality objectives. Details of the new system are to be provided for approval as part of the construction certificate application.

3.2 Landscape design

Council's Assessment Report identified concerns that the landscaped podium did not provide sufficient soil depth to support the plant species proposed in the Landscape Concept Plan, which included Bangalow and Pandanus palms.

In response, the podium design has been revised to incorporate three raised planter structures along the central spine of the platform, providing soil depths of up to 1,200 mm to accommodate mature trees and palms. The remaining podium areas will have soil depths ranging from 300 mm to 750 mm, suitable for a variety of groundcovers, succulents, and grasses.

Additional landscaping is proposed along the Wallum Street frontage to help screen the expansive ground-floor car parking area. This will comprise garden beds extending across the frontage, planted with a mix of native shrubs, grasses, and ferns.



Figure 2: Plan view of proposed podium landscaping.

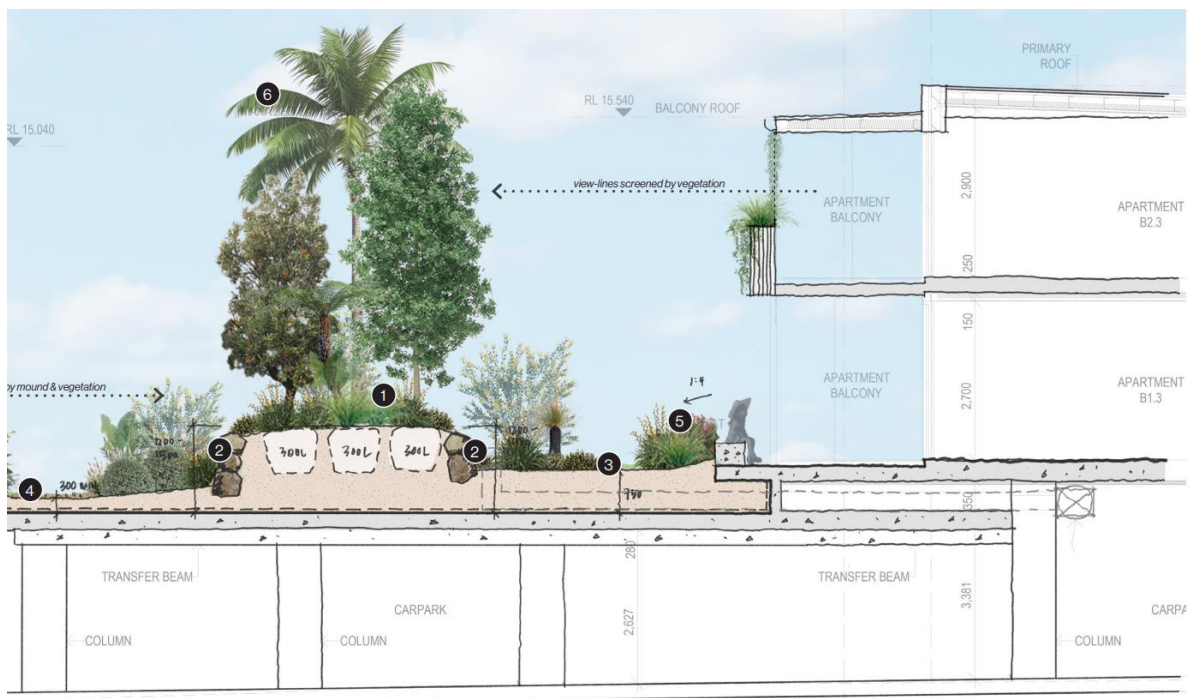


Figure 3: Podium Section. New planter structures are proposed to provide deeper soil profiles in the central spine of the podium.

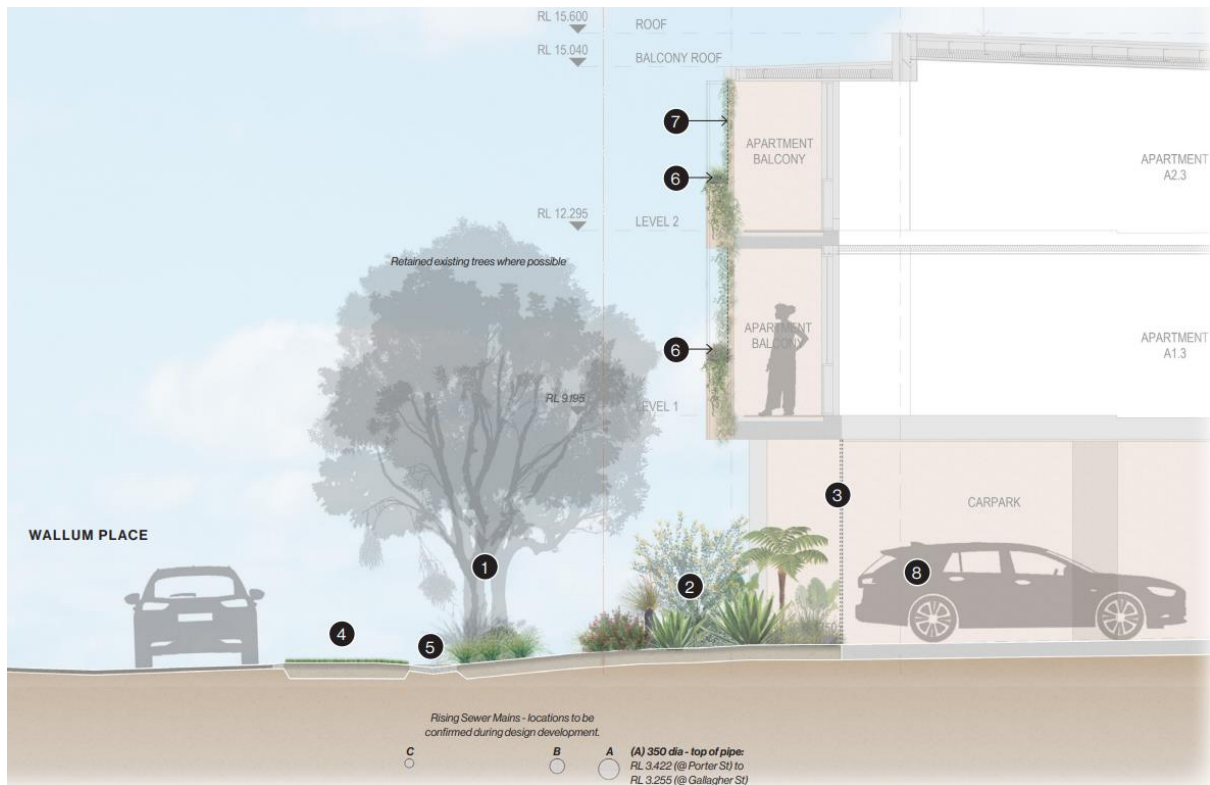


Figure 4: Wallum Place Section showing native shrubs, grasses and ferns in front of the ground level car parking area.



Figure 5: Photomontage of the proposed landscaping treatment facing Wallum Place. Taller trees in the foreground are existing street trees and do not form part of the proposal.

Assessment

The detailed landscaping plan is considered to satisfy the requirements of the Record of Deferral and generally addresses the concerns raised in the original Council Assessment Report. Adequate soil volumes are provided to support mature native vegetation within the centre of the podium, facilitated by three separate retaining structures. Garden beds along the Wallum Street frontage will also partially screen the ground-floor car parking area and enhance the visual presentation of the building's primary façade. In addition, a maintenance plan has been submitted, outlining the methods for the establishment, ongoing maintenance, and irrigation of landscaping across the podium.

3.3 Urban design and CPTED principles

The Panel raised concerns during the meeting that the south-east walkway between the new Stage 5 building and the Porter Street terraces was narrow, secluded, and created potential safety and security issues. The Record of Deferral requires the Applicant to provide further information on public safety and CPTED resolution of this space.

An updated plan has been provided detailing the following measures to improve the safety and security of the walkway in accordance with established CPTED principles:

1. **Access control:** Access to the walkway will be restricted by four gates. Two at the Easy Street and Wallum Pace ends and two at each side of the pocket-park crossing. The gates will be accessed by swipe-card or keyed access for residents and authorised tenants only, integrated with the existing Habitat-wide access-control system for shared facilities.
2. **Surveillance:** Four CCTV cameras are proposed, one at each of the walkway gates. The cameras are oriented to cover each gate, securing the points where unauthorised entry would likely occur. Habitat operates three random nightly security patrols across the precinct. One is a foot patrol that is intended to check the south-east walkway.
3. **Space and Activity Management:** The precinct's operational management plan will be updated at OC stage to include the walkway, covering night security patrols and quarterly inspections of all light fittings, gates, fences, access-control hardware and CCTV cameras.
4. **Lighting:** Lighting along the walkway will be designed by a suitably qualified electrical engineer and detailed at the construction certificate stage. The lighting will be continuously illuminated so that no portion of the walkway is in shadow at any time.
5. **Territorial reinforcement:** Discreet signage at each of the four gates will read "Residents and Service Access Only", or similar. The walkway itself will be finished in brushed concrete. The change in surface marks the transition between public and managed space.

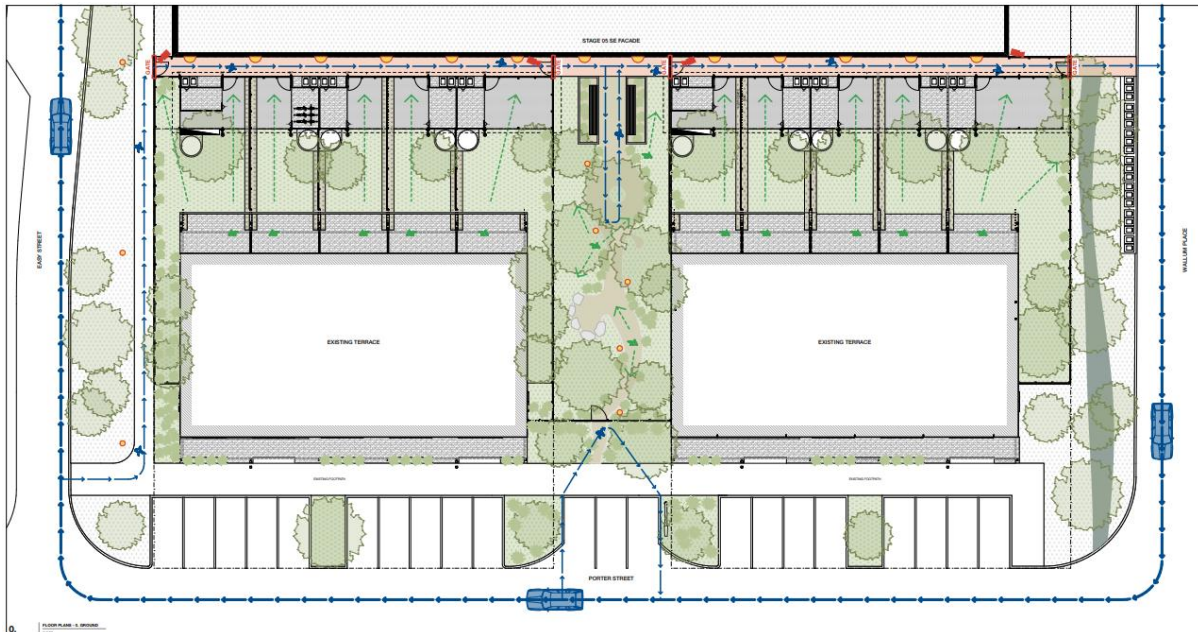


Figure 6: Updated CPTED plan – lighting and gates will be installed on the walkway.

Assessment

The proposed CPTED measures will improve safety and security of the new walkway and are considered to satisfy the requirements of the Record of Deferral. Security gates will limit access to authorised persons while wall-mounted lighting and CCTV cameras will ensure the south-east walkway is well-lit and has good visibility. Conditions of consent are recommended to ensure that the proposed CPTED measures are installed prior to the issue of an occupation certificate and maintained at all times.

3.4 Car parking and car wash requirements

3.4.1 Wide Car Parking Spaces

Section 4Q-1 of the NSW Apartment Design Guide requires that at least 20% of apartments incorporate the Liveable Housing Guidelines' (LHG) silver level universal design features. The LHG, in turn, specifies that silver level dwellings must provide car parking spaces with minimum dimensions of 3.2 m by 5.4 m where the parking space forms part of a continuous accessible path of travel to the dwelling entrance.

The Applicant has provided a letter from an access consultant putting forward a view that wide car parking spaces are not required for Class 2 Buildings under the LHG. The consultant's view is that the LHG does not apply to "common areas" in Class 1b, 2, and 3 buildings, which are instead covered by the Disability (Access to Premises - Buildings) Standards 2010 and the Building Code of Australia (BCA) Volumes 1 and 2.

The consultant further notes that the intent of the LHG is to provide wider car parking spaces only where the space is relied upon as part of a safe and continuous path of travel to the dwelling entrance. This requirement is typically relevant in the context of detached housing, where the additional width allows a person to move safely to the dwelling entrance even when a vehicle is parked within the allocated space.

Assessment

On review, this assessment finds that the requirement for wider car parking under Section 4Q-1 of the ADG is unnecessary, as the spaces are not required to form part of a continuous path of travel to the dwellings entrance. While wider spaces would have been welcome, standard width parking spaces are acceptable in the circumstances. The proposed accessible car parking layout satisfies the Record of Deferral and complies with the requirements of Byron DCP 2014, Chapter B13, and the relevant accessibility provisions of the NCC.

3.4.2 Car Parking Supply

Chapter E5 of DCP 2014 establishes special parking rates for the Habitat precinct. In general, these parking rates are lower than those for mixed-use development elsewhere in Byron Shire, in recognition that the live-work model envisioned for Habitat can lower total parking needs through the dual use of parking spaces.

The Applicant provided a summary table in their further information showing car parking requirements for the proposed development under Chapter E5 of DCP 2014. The Applicant calculated a lower parking rate compared to the Council Assessment Report, on the basis that Council did not account for car parking offsets attributable to car share or motorcycle parking.

The Applicant's summary table shows the following car parking requirements:

Table 2: Applicant's revised car parking calculations

Use	Parking Rate	Required	Provided
Residential Units	1 per bedroom	82	82
Residential Visitors	1 per 4 apts.	20	20
Office / Commercial	1 per 40m ² x 70%	7	7
Co Lab	1 per 40m ² x 70%	0	0
Retail	1 per 20m ²	24	24
Motorcycle	8m/cycles = -2 com.	-2	-2
Car parks required			131

Assessment

The Applicant's lower parking calculation is not disputed; however, it is not considered a significant factor in this assessment. The quantum of car parking (141 spaces) was already deemed satisfactory and no change to that finding arises due to the amended parking plans or the Applicant's revised calculations.

3.4.3 Car Washing Bays

Part D1.10.6 of DCP 2014 (Site Facilities) requires 1 car washing area to be provided for shop top housing development, at a general rate of 1 bay per 10 dwelling units. The car wash area must have minimum dimensions of 7.6 m by 3 m, and may be part of a visitor space, driveway or turning area where it can be shown that the wash bay will not cause undue conflict of use. The proposed development has 78 residential units and requires 8 car washing bays under DCP 2014.

The amended car parking plan includes 1 car wash bay at the eastern end of the car parking area, near the bicycle racks. The wash bay overlaps with one of the residential visitor parking spaces.

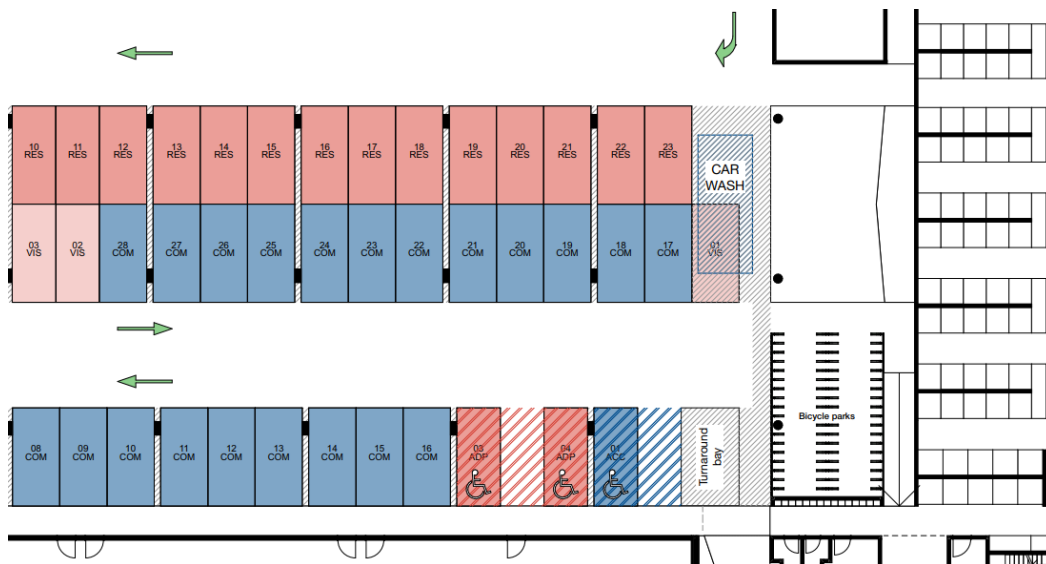


Figure 7: Amended car parking plan showing a washing bay.

Assessment

While the amended scheme is an improvement over the original design, one car wash bay is considered insufficient for an apartment complex containing 78 units and does not satisfy the Objectives and Performance Criteria of Part D1.10.6 of DCP 2014.

There is potential to reconfigure the ground floor car parking area to provide one additional car wash bay. Additionally, there is likely space within the broader Habitat site to provide additional car washing facilities if required.

It is considered that the current lack of car washing facilities can be addressed through a condition of consent that requires amended plans to be approved prior to the issue of construction certificate identifying at least two car wash bays within the development or the broader Habitat complex.

3.4.4 EV Ready Car Parking Spaces

Part B4.2.14 of DCP 2014 requires EV-ready car parking spaces to be provided at a rate of one space per dwelling for residential flat buildings, and at least 10% of the total number of spaces for commercial premises. 'EV-Ready' means spaces that are fitted with conduit and have sufficient electrical capacity for future installation of charging stations.

NCC Section J9D4(2)(e) requires 100% of car parking spaces associated with a Class 2 building and 10% of those associated with a Class 5 or 6 building to be sized for the future installation of a 7kW type 2 electrical charger. A letter was provided from a consultant engineer who confirmed that the NCC requirements exceed those in DCP 2014 for this development.

The proposed development has 78 Apartments and 33 commercial car parking spaces, which generates demand for:

- 81 EV-ready car parking spaces under DCP 2014, and
- 115 EV-ready car parking spaces under NCC 2025.

Assessment

Of the 141 car parking spaces provided, 115 are proposed to be EV-ready, satisfying the requirements of DCP 2014 and the relevant provisions of the NCC. Accordingly, a condition of consent is recommended requiring these 115 EV-ready spaces to be installed during construction and maintained for the life of the development. Subject to the imposition of this condition, the proposal is considered acceptable and consistent with the requirements of the Record of Deferral.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application is integrated development requiring a Bush Fire Safety Authority under s100B of the Rural Fires Act 1997 as it involves subdivision of bushfire prone land that could be lawfully used for residential purposes. The application also required consultation with Essential Energy under s2.48 of the Transport and Infrastructure SEPP as it involves excavation within close proximity to underground powerlines.

The additional information provided in response to the Record of Deferral did not result in substantive changes to the proposed development and it was considered unnecessary to refer the application back to the RFS or Essential Energy for consideration.

4.2 Council Officer Referrals

The Applicant's additional information was referred to Council's Development Engineer for technical review. Council's Development Engineer did not support the proposed stormwater system design due to the inadequate separation distance between the base of the southern OSD system and the site's highest seasonal groundwater level. It was concluded that the southern OSD system cannot be supported from a groundwater and infiltration performance perspective without design modifications, further hydrogeological justification, or the adoption of alternative stormwater management measures.

To address these concerns, a condition of consent is recommended which requires the southern OSD system to be deleted from the plans and replaced with a proprietary stormwater treatment device that is capable of achieving Council's stormwater management and quality objectives.

4.3 Development Contributions and Servicing Levies

The proposed development is expected to generate an increase in the local population and will therefore attract development contributions totalling \$993,735.60 under Byron Shire Council's Section 7.11 Development Contributions Plan.

The proposal also attracts servicing levies due to the increased demand on Council's water, bulk water, and sewer infrastructure. This additional demand has been calculated as 54.18 Equivalent Tenements (ETs) for water, 54.18 ETs for bulk water, and 63.20 ETs for sewer.

All development contributions and servicing charges have been calculated in accordance with the relevant plans and policies. In determining the number of bedrooms within each unit, rooms capable of being used as bedrooms have been included, consistent with the definition of a bedroom in the following documents:

- Page 11 of *Water and Sewer Equivalent Tenements Policy 2022* [Water and Sewer Equivalent Tenements Policy - Byron Shire Council](#).
- Section 2.6 of *Byron Shire Developer Contribution Plan 2012* (Including Amendment 4 Incorporating a Section 7.11 and a Section 7.12 Plan under the Environmental Planning and Assessment Act 1979) [Developer Contributions - Byron Shire Council](#)

4.4 Community Consultation and Submissions

The amended proposal was not readvertised or renotified in accordance with Schedule 1, Item 23, of the Environmental Planning and Assessment Act 1979. The proposed amendments to the application were minor and/or technical in nature and did not increase the likely environmental impact of the proposed development or affect any of the issues raised in public submissions.

5. CONCLUSION

The matters required to be addressed by the Panel's Record of Deferral dated 17 April 2026 have been satisfied or are capable of being satisfied subject to conditions of consent. Recommended draft consent conditions are outlined in **Annexure A**.