

Council Reference: 10.2020.474.1

Our Reference: J6643

23 March 2021

Byron Shire Council

Via Email: pdocherty@byron.nsw.gov.au

Attention: Patricia Docherty

**Multi-Dwelling Housing
103 Paterson Street, Byron Bay and 78 Shelley Drive, Byron Bay**

Dear Patricia,

We write in response to Council's emailed correspondence on the 7 December 2020 and 27 January 2021 regarding the subject development application.

We appreciate the additional time to reconsider the proposal, and now submit a revised amended plan set along with additional information regarding the proposed outcomes. The amended plans and associated documentation have been prepared in response to Council's emailed correspondence, our meeting with Council's technical staff on 15 December 2020 and the concerns raised in the public submissions. This includes the following:

- Revised architectural plans, including site plans and home plans
- Revised waste management plan
- New acoustic impact assessment
- Revised civil engineering plans and stormwater management plan
- Revised hydraulic assessment
- Revised arboricultural impact assessment
- New access and mobility advice
- Revised statement of landscape intent
- Revised ecological assessment
- Submissions summary

Greater commentary regarding the amended plans and associated documentation is provided under Section 2 and 3 of this RFI letter, though in short, these changes relate to:

- Reducing the amount of vegetation removal and cut and fill proposed, through a revised driveway and access design
- Removing any proposed offsite offset planting, ensuring compensatory planting and a strong landscaped outcome is achieved onsite
- Ensuring a DDA accessible development, resulting in a new boardwalk entry to the site being included
- Reducing the number of perceived noise generating areas such as pools and roof terraces
- Adding housing diversity, by varying building layouts and bedroom numbers
- Reducing perceived bulk, scale and development intensity from surrounding land, by:
 - increasing the rear setbacks for most individual units,
 - increasing the amount of grass courtyard / landscaped space for each unit,
 - spacing units apart into maximum of 2x adjoining dwellings
 - ensuring compliance with the building height plane
- Using fencing design to reduce potential noise impacts for adjoining land
- Ensuring flood risks are appropriately managed at the site and achieving an improved drainage outcome at the site and for the wider area

We do confirm under Section 55 of the *Environmental Planning and Assessment Regulation 2000* that we now seek consent based on the updated plans and documents attached to this letter.

2. Overview of Building Changes & Other Supporting Information

2.1 Key Building Elements

The following detail is provided to confirm the key design elements of the previously proposed development and the modified design.

Design Element	Previous Proposal	Modified Plans
Number of Units	14x units	14x units
Housing Diversity	14x 4-bedroom units	3x 2-bedroom units (H1, H4 and T6)
		1x 3-bedroom unit (H3)
		9x 4-bedroom units (H2, H5-H7, T1-T5)
Rooftop Terraces	14x roof terrace	9x roof terraces (H2, H4-H7, T3-T5, T7)
Swimming pools	8x pools	6x pools (H2-H5, T4-T5)
Private Car Parking	2 spaces per unit (4x bedrooms)	1 space per 2-bedroom units (H1, H4 and T6)
		2 space per 3 or more-bedroom units (H2-H3, H5-H7, T1-T5)
Visitor Parking	4 spaces	4 spaces
Gross Floor Area	1,907m ²	1,859.8m ²
Floor Space Ratio	0.50:1	0.49:1
Permeable Landscape Area	846m ²	968m ²
Maximum Building Height	9m	9m

2.2 Access, Parking & Manoeuvrability

The community's concerns regarding limited car parking being provided onsite are noted, though it should be acknowledged that the application has been designed with a car parking and access outcome which meets Council's and the Australian Standard requirements for car parking provision and design.

Despite a revised driveway layout and parking arrangement, the proposed modifications do not reduce parking availability and manoeuvrability onsite. Each dwelling type is provided the required car parking space as per Council's local planning controls and 4x visitor spaces are provided, also consistent with the planning controls.

Residents vehicles can enter and exit in a forward direction. The driveway access point to Paterson Street has been tested and confirmed to meet relevant Australian Standards in terms of separation from the Shelley Drive / Paterson Street intersection and sight lines.

The alignment and slope of the driveway has been modified to avoid significant mature trees that sit onsite in the northern portion of the land and in the foreground of Paterson Street, while also reducing the amount of earthwork proposed outside of the flood affected portions of the site. The slope of the driveway now warrants a separate DDA accessible pedestrian link into the site, that has been provided in the form of a new raised boardwalk. This boardwalk sits level to the site at the site entrance and then provides a raised level access platform above the sloping land below, that then can be descended into the development footprint by a set of stairs and separate lift.

2.3 Vegetation Loss and Landscaping

The vegetation onsite has again been investigated in terms of its ecological significance, as well informing the revised design.

The revised **Ecological Assessment** notes that while canopy species within the existing tree copses are reflective of those species found within Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East, the land on which these copses sit means that they do not qualify as an Endangered Ecological Community (EEC), are not classified as critical habitat and their removal does not present as a significant impact to threatened species. It

is contended in this **Ecological Assessment** though, that any loss of vegetation should be offset in accordance with Byron Shire Council's replanting quantity requirements, as specified under its local planning controls.

The revised proposal has been guided by a revised **Arboricultural Impact Assessment** which indicates that a reduced amount of clearing is now required onsite to accommodate the development, reducing from 24x trees to 16x trees. This includes retaining important trees onsite such as Swamp Mahogany and Coastal Cypress species, as well as retaining as much vegetation as possible that sits in the immediate foreground of Paterson Street and Shelley Drive. The **Arboricultural Impact Assessment** includes recommended construction techniques to manage retained trees as well as additional safeguards to assist their ongoing survival. The report also outlines what offset planting is to occur onsite, including planning ratios and recommended species to ensure a similar natural environment is achieved onsite post development.

These recommendations have been adopted through the updated proposed landscaping strategy for the site. The revised **Statement of Landscape Intent** demonstrates how the required offset planting ratios are being achieved through proposed plantings, utilising recommended species from the **Arboricultural Impact Assessment** to ensure landscaping onsite contributes to the natural amenity and character of the locality. The retention of the trees allows green vistas to the skyline from local public domain viewable spaces. This character will improve over time as the additional tree planting throughout the site matures.

2.5 Waste Management

A revised **Waste Management Plan** has been prepared for the site to consider the revised layout and respond to issues raised in Council's RFI email and the public submissions. Council and the submitters raised concern that there is not adequate space at the front of the site to accommodate the number of individual bins previously being proposed on the land.

A new designated waste storage facility has been included onsite that can be accessed by all residents, and where weekly waste will be stored and able to be collected by a licenced contractor onsite. This waste area has been confirmed to be accessible by all residents via the boardwalk and designed large enough to be DDA accessible, as well as being accessible onsite by a waste collector.

While this waste storage area is located forward of the building line and within view of the street, it is located within an architecturally designed enclosure that also incorporates the residence letter boxes and will appear as a gateway entrance statement from the street frontage and softened by the existing vegetation that stands behind and above it.

2.6 Civil Works

Revised civil and hydraulic advice and associated **Civil Engineering Plans** and **Stormwater Management Plan** have been developed, considering the revised layout and considering the comments raised by Council through its emailed correspondence.

Stormwater & Flooding

While this land is not mapped as flood prone, a local drainage and flooding issue is known and thus Council's hydraulic engineer and the project team's hydraulic consultant have been in consultation with one another and agreeance regarding the flood planning levels for the site, being 6.5m AHD, and hydraulic modelling has been made. The previous hydraulic assessment submitted has been updated considering these outcomes and considering the revised layout now proposed.

Filling of the site to the flood planning level is required in the southern portions of the site, though the drainage regime proposed for the site will ensure any runoff from the site will be guided through a new onsite stormwater detention and treatment system and guided to the existing swale / drainage easement and legal point of discharge in the south of the site. Pre-development flows have been confirmed as being able to be achieved. Works off the residential development site and within Shelley Drive Reserve remain part of the proposal, as agreed and required by Council's hydraulic engineer. This includes a new 16m wider x 0.5m shallow drain that will direct water from Shelley Drive to the existing drainage easement within the south of the site.

Earthworks

The extent of earthworks proposed across the site have reduced, with most of the filling required to ensure the agreed flood planning level for the site is achieved and ensuring desired drainage outcomes can be achieved. Cut and fill is

limited to 1m in height except around Unit H1, where great cut is required to accommodate an accessible and safe car parking space for this unit. In accordance with Figure B14.2 of Chapter B14 under Council's DCP, this extent of cut is supportable.

3. Detailed Response to Request for Further Information

The following table provides a response to each item raised in Council's email of 7th December 2020 and 27 January 2021.

1. The proposal represents overdevelopment of the site. The proposal would result in the loss of almost the entire existing extent of native vegetation on the site. Native vegetation on the site likely conforms to the description of the Endangered Ecological Community Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions.

In addition to the remarks from Council, we also note that the community did raise concern that the site does provide habitat for the Masked Lapwing Plover.

It is acknowledged that vegetation removal is proposed onsite to accommodate the development product being sought. The vegetation communities onsite have again been reviewed and confirmed under the revised **Ecological Assessment** to not qualify as an Endangered Ecological Community, are not classified as critical habitat and its removal does not present as a significant impact to threatened species.

The extent of vegetation to be removed has been reduced from 24x trees to 16x trees. This includes retaining important trees onsite such as Swamp Mahogany and Coastal Cypress species, as well as other vegetation that occur within the foreground of Paterson Street and Shelley Drive.

The confirmation of which trees are to be removed as well as necessary offset planting requirements has been made via a local arborist and considering the assessment and offset requirements specified under Council's DCP Chapter B2 – Preservation of Trees and Other Vegetation, despite this local policy being made and adopted post submission of the DA.

The required offset planting has been accommodated onsite, as demonstrated through the revised **Statement of Landscape Intent**. Hard landscaping areas are limited to ensure sufficient vegetated areas are established in open space areas to maximise the opportunities for possible habitat creation, private open space recreation and general amenity particularly along street frontages and between adjoining residential land.

2. Compensatory planting offsite is not supported.

We maintain that offsite planting was previously proposed as this had been advised by Council technical staff during the pre-lodgement consultation phase of the project. Notwithstanding, we confirm that required offset planting as specified under the Arboricultural impact assessment is now wholly proposed and achieved onsite.

3. Submission of Engineers Report to prove that the earthworks and structures of the development will not result in adverse impact elsewhere. The report shall include an afflux plan for the whole drain at the rear of the development site up to Coopers Street showing the extent of flooding to affected properties along the drain and Coopers St.

We note that Council provided further advice about this matter in its correspondence of 27 January 2021. This included comments regarding parking, flooding and stormwater.

Reference should be made to the revised **Hydraulic Assessment, Stormwater Management Plan** and **Civil Engineering Plans**, as well as the comments made under section 3.6 of this RFI report.

Council's comments of 27 January 2021 indicated that a letter of concurrence from the owner of Lot 86 DP 708473 is required for the proposed works inside the land. This land is Shelley Drive Reserve, is owned by Council, and landowners' consent from Council has been issued for the subject DA. This has been submitted previously.

- 4. Submission of an amended Stormwater Management Plan to demonstrate that the location of the infiltration system will effectively work as designed as this will be inundated frequently in the current proposal. Please provide an electronic copy of the DRAINS and HEC RAS models to support the Stormwater Investigation Report 200320 prepared by Lucena Civil & Structural Engineers dated 10 October 2020. Please be advised that upgrade of the downstream stormwater drainage system will be a requirement of the Development.**

Reference should be made to the revised **Hydraulic Assessment, Stormwater Management Plan and Civil Engineering Plans**, as well as the comments made under section 3.6 of this RFI report. The digital drainage data for these reports has been provided to Council electronically.

We remain unsure about the reference to the *Stormwater Investigation Report 200320 prepared by Lucena Civil & Structural Engineers dated 10 October 2020*. This report does not form part of the subject Development Application package nor was it disclosed to the applicant from Council despite being requested.

- 5. The proposal is inconsistent with the objectives of the R2 Low Density Residential zone having regards to the site density and intensity of development. In particular, a failure to retain significant high environmental value vegetation and a lack of deep soil screen planting between dwellings on site and adjoining existing residential lots.**

The **Ecological Assessment** has confirmed the vegetation onsite is not an EEC and compensatory planting to replace any trees proposed to be removed is able to be provided onsite, in accordance with Council's compensatory planting requirements under its newly adopted DCP. This replanting can be provided within increased deep soil zone areas and setbacks onsite that have been included under the revised layout. This will allow vegetation screening along the property edge to adjoining private land, compliment the new built form and streetscape outcomes and ensures a level of greening and natural look of the site remains.

The built form outcomes visible from the Paterson Street streetscape and public domain include the upper level of Unit H1 and its roof. Other visible elements will be the boardwalk, bin storage and letter box area, electrical sub-station (if required), driveway and landscaping. Glimpses of Unit H5, H6 and H7 will be visible from Shelley Drive in the south east, located behind other residential development and the Shelley Drive Reserve. In this sense, the density and intensity proposed onsite is generally not in view and is hidden from the public realm. Retaining the existing mature vegetation at the site frontage along with additional landscape planting that is within public view of Paterson Street and Shelley Drive will help break up and disguise the built form elements within view of the public domain. The retention of the trees allows green vistas to the skyline from local public domain viewable spaces, such as Paterson Street and Shelley Drive and the Shelley Drive Reserve. This landscape character and blurring of the development at the site's edges and within the site will also improve over time as the additional onsite tree planting matures.

While we acknowledge this site is the largest allotment subject to redevelopment in the area, and thus able to accommodate a greater yield than other existing or approved multi-dwelling housing development in the area, we contend that the density and intensity of development being sought is commensurate to the locale and zoning for the site.

Council's recent locality plan and adopted DCP provisions, flag this site and surrounding area as a transitional residential area that is earmarked for change and incorporating low-rise medium density housing. These outcomes can be achieved, consistent with the numerical development standards that apply to the zone and housing type under Council's LEP and DCP and almost out of view from the public domain.

The proposed orientation of the dwelling product onsite and its accentuation through landscape qualities, provide for a continuity of a green low-density landscape along Paterson Street and Shelley Drive, while also providing new housing opportunity as anticipated under Council's recent locality plan. The proposal in this regard meets the objectives of this zone by providing for the housing needs of the community, while maintaining the low-density environment.

- 6. The proposal is inconsistent with the requirements of Chapter B8 Waste Minimisation and Management Byron DCP 2014 Operational waste management. Insufficient space along available frontage for collection of 240L bins from the street, lack of detail for adequate storage on site, no demonstrated path of travel for access and mobility etc.**

Comments regarding waste management is provided under Section 2.5 of this report.

7. The proposal is inconsistent with the prescriptive measures under Chapter B9 Landscaping of Byron DCP 2014.

Council's RFI did not specifically indicate which controls it contends were not complied with, though an assessment is provided below regarding the prescriptive controls applicable to multi-dwelling housing under Chapter B9.

D1.6.3 Landscaping

B9.4.1 Landscape Principles - Prescriptive Measures:

The following design requirements apply to multi dwelling housing, attached dwellings and residential flat buildings developments:

- a) retention of suitable existing vegetation.
- b) screen planting to street frontages and driveway areas, to provide privacy between dwelling houses and around the boundaries of the site.
- c) provision of pleasant, landscaped settings for the enjoyment of residents.
- d) planting selection that relates to building scale and mass

Comment:

- a) The trees proposed to be removed have been reviewed by an arborist and ecologist, who have indicated that their removal will not have a detrimental ecological, amenity or scenic impact. Compensatory planting onsite as required under Council's newly adopted DCP is proposed to offset any loss of vegetation and minimise potential impacts.
- b) Screen planting is provided along all site edges. The proposal's setback from Paterson Street, and green edges ensure that the development 'sits' within its wider natural landscape. The retention and replating of trees allow green vistas to the skyline from local public domain viewable spaces and a landscape separation between adjoining residential land. This character will improve over time as the additional tree planting throughout the site matures.
- c) The landscaping onsite will complement the new built form outcomes, compliment views achieved from within the homes and within private open space areas onsite.
- d) The bulk, scale and layout of the proposal allows it to be nestled behind and a part of its existing vegetated landscape.

The common landscaped area of the site must not be less than the total of the areas required for each dwelling house, calculated from the following table, less the total of the areas of approved private courtyards and approved private open space balconies in accordance with Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones

Table B9.1 – Dwelling Size to Landscape Area

Dwelling ^(D) Size	Landscaped Area ^(D)
Small (under 55 m ² in floor plan area ^(D))	50 m ²
Medium (55-85 m ² in floor plan area ^(D))	70 m ²
Large (over 85 m ² in floor plan area ^(D))	90 m ²

Comment:

The definition of Common Landscape Area under Part A of the DCP and the wording of Control B9.4.1.2 indicates that a dedicated and prescribed communal landscape area is to be provided for multi-dwelling housing. The objectives of the provision and its consistent application throughout Byron tends to indicate a preference away from shared and often disused communal recreational land and more towards ensuring open space onsite is usable, desirable and complements the existing urban and natural landscape. In this sense, we continue to witness development being approved that does not include large communal recreational areas but rather that this landscaping area is being achieved through private open space settings, which can be landscaped, usable and act as buffering to surrounding development.

	<p>Based on Table B9.1 and that private open space balconies are not required for this form of development in accordance with Council's DCP, a minimum common landscape area of 840m² is required, being 60m² per unit.</p> <p>When reviewing the whole site:</p> <ul style="list-style-type: none"> • Over 1,500m² is landscaping area / recreational space • Over 1,000m² is permeable (being 27% of the site or 66% of the landscaped / recreational space) • Each unit achieves well over 30m² of private open space. • The large private open spaces for each unit provide landscape buffering to surrounding development, while also increasing residential amenity onsite • The additional landscaped areas within the site comprise important trees that will be retained as well as additional landscape planting that will contribute to the attractiveness of the site and green edge along Paterson Street and adjoining residential land <p>The proposed landscaping outcomes avoid bare and often disused spaces, but rather achieve unusable, desirable, private, attractive and natural landscaping outcomes.</p>
B9.4.2 Prescriptive Measures:	
The common landscaped area of the site must be in accordance with Section B9.4.1	<p>Comment:</p> <p>The amount of common landscaping provided onsite is discussed above</p>
A minimum of 75% of the total common landscaped area of the site must consist of deep soil areas. Areas of landscaping over underground car parks, and the like, cannot be included in the calculation of deep soil areas.	<p>Comment:</p> <p>Considering control B9.4.1, which stipulates a minimum of 840m² of common landscaping area being required onsite, a minimum deep soil area of 630m² is required (being 75% of 840m²).</p> <p>The revised plans confirm that greater than 640m² of deep soil planting area is provided, meeting the minimum deep soil zone area requirements under the DCP.</p> <p>Over 1,000m² of site area is permeable (being 27% of the site or 66% of the landscaped / recreational space), ensuring that a green / landscaped outcome can be achieved despite the density being proposed.</p>
The landscape design must address: a) the retention and provision of appropriate trees on the site.	<p>Comment:</p> <p>Landscaping areas have been designed to retain and support mature landscaping onsite, as well as create a green edge to the development, creating</p>

<p>b) the use of earth mounding and terraced areas to create useful and visually pleasing recreation areas and to assist screening.</p> <p>c) the orientation of landscape areas with regard to sunlight and prevailing winds.</p> <p>d) the provision of sufficient areas adequately shaded against the summer sun and giving adequate access to the winter sun.</p>	<p>a landscaped buffering to buildings onsite from neighbouring land. These courtyards function as a private outdoor living area that seamlessly integrate with the indoor living areas of each unit. The sliding door between the primary internal living areas and the external courtyards allows residents to open their sub-tropical set home and achieve indoor-outdoor living and recreational opportunity, increasing useability and appreciation of these outdoor spaces all year round, despite these spaces along the western property boundary spaces being predominantly shaded through the winter periods.</p> <p>A level of sunlight access to these western spaces throughout the year is achieved, and more importantly good ventilation is achieved, which increases their usability for services such as clothes drying areas.</p> <p>The colocation of indoor and outdoor living spaces and complimentary landscaping also supports a subtropical lifestyle and broader integration with a landscaped setting.</p> <p>That is, the landscape spaces support the various private open space functions for residents onsite and surrounding land, as intended by the controls.</p>
<p>Areas used for the management of on-site sewage effluent must be excluded from calculations of the common landscaped area.</p>	<p>Comment: Onsite effluent management is not proposed.</p>
<p>8. The proposal is inconsistent with Chapter B13 Access and Mobility of Byron DCP 2014; Disability Access and Mobility must be demonstrated. The adaptable housing units must be located throughout the development with a variety of outlooks. Access to the upper level of townhouses can be by lift, stair lift, chair lift, inclinor or platform lift or ramp in accordance with the relevant Australian Standards. Any lift must comply with the relevant Australian Standards. Access: A continuous accessible path of travel in accordance with AS1428 or an inclinor/ lift/ hoist (in accordance with AS1735) as appropriate must be provided between the <u>main street entrance to the residential complex, adaptable housing units, access or car parking spaces, letterboxes, garbage storage area, recreation areas and clothes drying areas.</u></p>	
<p>A separate report is provided which specifically addresses this comment. Refer to the DDA Assessment.</p>	
<p>9. The proposal is inconsistent with the building height plane and setback requirements under Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones of Byron DCP 2014. It is not considered acceptable for balconies to broach the building height plane.</p>	
<p>The revised architectural plans include the building height plane measurement for each unit and the site collectively. The building height plane is shown to be measured from the existing ground level. The architectural plans confirm the building height plane, which sets the required setback and height limitations, are being met.</p>	
<p>10. The overall height of the building (house 3) breaches the maximum height of buildings 9 metres and no request in writing has been provided pursuant to Clause 4.6 of Byron LEP 2014.</p>	
<p>The revised architectural plans include the maximum 9m building measurement for each unit and the site collectively. The building height is measured from the existing ground level. The architectural plans confirm that the maximum building height requirements are being met.</p>	

11. The proposal is inconsistent with Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones of Byron DCP 2014 as the development generates excessive shadow impacts and a lack of privacy and acoustic impacts with multiple swimming pools between dwellings on site and adjoining the site;

Council's RFI did not specifically indicate which controls it contends were not complied with under Chapter D1. We note that under the revised proposal:

- all residential units onsite meet the building height requirements (D1.2.1(1))
- all minimum setback requirements are met (see comments below regarding H1), (D1.2.2(1), (2) and (4))
- a zero-side boundary setback is proposed for the garage of Unit H1, though this does not encroach the building height plane, does not cause overshadowing or privacy issues for adjoining land (D1.2.2(2))
- Side and rear fences of 1.8m are proposed (D1.2.5(1))
- 30m² courtyards are provided for all units and most of these courtyards include approximately 30m² grassed area (D1.6.1(1))
- Landscaping requirements are being met as discussed above (D1.6.3)

The following comments are also provided in relation to the performance criteria under Chapter D1 that relate to shadowing, privacy and acoustic impacts. These are captured under controls D1.2.1, D1.2.4, D1.6.1 and D1.6.5:

- significant private open spaces are provided to take advantage of the sub-tropical climate, but also in a manner that assist greening the edges of the development and integrating with the existing urban landscape
- the setbacks and building orientation minimise potential for privacy invasion.
- shadow over adjoining development to the west already occurs as a result of the topography of the land and property fence. This shadowing is increased as result of the development though given the orientation of the site as well as the setbacks and building heights proposed, no shadow is created by the proposed units over the adjoining land from mid-afternoon in winter.
- units have been spaced apart through the site, to help reduce perceived bulk, scale and development intensity from surrounding land, retain existing vegetation on the land and support new landscape planting onsite. While a 3m separation is not achieved in all instances, we note that no openings are required along these building frontages and thus there are no impacts on privacy or energy efficiency within the homes.
- a reduced number of roof terraces are proposed, though those that remain are reduced in size and setback more than +8m from the property boundary.
- High set windows have been used for all upper-level windows that face to the rear and outward of the site and not towards courtyards. No side windows are proposed for units. This also precludes viewing into neighbouring land or towards courtyards
- balconies are not provided which face external to the site or towards private open space areas within the site
- courtyards are provided behind 1.8m boundary fencing
- a reduced number of pools are proposed and those that remain, are setback greater than 1m to coping and 1.5m to the water line

12. The proposal is inconsistent with the Character Bulk and Scale Provisions under Chapter E5 of Byron DCP 2014; The character of Byron Bay suburban garden areas bounded by undulating to steep landforms, national park and wetland nature reserves, where the built form is largely one or two storeys incorporating various building materials and styles. The areas coastal and hinterland views, hilly topography and abundance of subtropical/coastal vegetation give it a distinctly leafy green and natural feel. It is important that any future infill development in 'transitional' areas respects the limitations of steep terrain and does not intrude on highly visible hills and other landforms, while areas mapped in the environmentally sensitive category should complement the low scale character and qualities of the natural landscape.

We appreciate the comments regarding Chapter E5 of the DCP that was adopted after the DA was submitted, though we note the SEE does discuss the Character Narrative for the area and other considerations under Council's Residential Strategy which was in draft format at the time of submitting the DA.

The proposal embodies the desired character narrative and design considerations for Pocket B, which this site sits. It offers new housing opportunity within an area flagged for urban transition and within a modern coastal architecturally designed array of low-rise townhouses. The density proposed on this residential allotment is commensurate to the urban form and intensity of the locale, though is achieved out of sight of the public domain, does not restrict wider scenic

appreciation and is able to retain and accommodate landscape features that ensure a subtropical and coastal vegetated outcome is achieved.

While roof terraces are provided to some of the units, these fit within the building height controls set for the locale, are setback significant distances from side boundaries, are generally not viewable from the street except for minor glimpses from Shelley Drive and are designed to appear and function as a pop-up element to a dwelling as opposed to an additional storey. We also note that despite the land being filled in parts, the heights proposed onsite are measured from the existing ground level. The heights achieved onsite are not dissimilar to existing building form within the area and particularly to which exists and has been approved along Paterson Street.

13. The proposal having regards the developments density and intensity of development will have an unacceptable impact on the neighbourhood character, and generates deleterious impacts on neighbours through overshadowing and loss of privacy;

The concerns regarding density and intensity, overshadowing and privacy have been discussed above.

The revised design has, for the most part, increased setbacks from property boundaries as well as reduced the total gross floor area, the number of perceived noise generating areas (i.e. roof terraces and pools) and the size of roof terraces that are being retained. Through these reductions, the proposal has increased landscaping opportunity between the proposed units and adjoining land, has introduced spacing between units to break up the bulk of the development when viewed from neighbouring land and increased planting onsite. Property fencing, when combined with the boundary retaining walls will create a visual barrier between the adjoining land, ensuring privacy and minimising possible for noise interruption.

The shadowing created by the development, including the boundary fencing, is not considered overburdening given the existing shadowing which already occurs due to the boundary fencing and topography of the land, and that living areas and rear yards within adjoining land do gain +3 hours of sunlight access during the winter.

14. The site is considered unsuitable for the density and intensity of development as proposed.

This comment is a continuation of previously raised concerns that have been discussed above. Further comment is also provided below.

15. The proposal is considered to be an overdevelopment of the site and is not in the public interest creating an undesirable precedent.

Council has adopted a target of 85% of new dwellings to 2036 (2,680 dwellings) to be provided in towns and urban villages to make good use of land and infrastructure. 955 infill and pipeline dwellings are specifically projected in Byron Bay, and are coupled with 'liveable neighbourhood principles' to ensure the right housing is delivered in the right location. Of note, 650 of Byron Bay's projected dwelling growth is forecast for West Byron, however the current trajectory of applications/approvals indicate that this target is unlikely to be met. Any shortfall in the delivery of housing targets for West Byron, as well as other areas within the LGA, will place increased importance on delivering density within Byron Bay itself given its natural advantage of access to services, open space and amenity. The proposal is considered to make a meaningful contribution towards the growth target established and incorporates a building form that is identified as suitable and within a locale which the Council's Residential Strategy and Character Narrative champions as an area set for urban transition.

The locale already comprises a mixture of low-rise structures and various housing forms, including single dwellings, dual occupancies and townhouses. This area is quickly transforming into a dense urban landscape. Land to the immediate south and east comprise both existing, under construction and proposed dense residential living. To the east of the site is the Cape Byron Retirement Village. That is, the immediate adjoining residential development is primarily dense townhouse and seniors housing forms.

It is discussed in the SEE that an urban density of approximately 34x dwellings per hectare is achieved in the area (this considers land at 107 – 113A Paterson Street) and that the proposal achieves a net dwelling density of approximately 36x dwellings per hectare, commensurate with the local area.

RFI Response

Multi-Dwelling Housing

103 Paterson Street, Byron Bay and 78 Shelley Drive, Byron Bay

www.planitconsulting.com.au

CONSULTING

While the size of the allotment has supported 14x townhouses being proposed that meet the key design controls for the area and low-density zone objectives, the outcome is not inconsistent to the area's existing density and urban form. The proposal will contribute to housing choice, while achieving a landscaped and green edge to the public domain.

16. Submissions

A summary of the issues raised in the submission is attached to this RFI response. The submissions raised similar concerns to those raised by Council and generally the same themes to what was raised during the pre-consultation phase of the project. These generally relate to:

- drainage and traffic issues in the area and that increased density at the site has the potential to exacerbate the matter.
- the loss of vegetation onsite and objection to replanting works within Shelley Drive Reserve,
- the form of development and potential to impact amenity for adjoining residents.

These concerns have helped inform the revised layout as well as the updated technical detail being submitted under this RFI response.

It was confirmed with Council that the revised DA is likely to require re-exhibition. We confirm that should Council re-exhibit the proposal we will again request to review any submissions received during this next phase of consultation and will respond accordingly (if required).

If you have any queries or concerns in relation to this request, please do not hesitate to contact our office on (02) 6674 5001 or via email lukeb@planitconsulting.com.au

Yours sincerely,

Luke Blandford
Planit Consulting Pty Ltd