

Our Ref: 200483
Your Ref: DA20/2056

12 November 2020

Chief Executive Officer / General Manager
Shoalhaven City Council
36 Bridge Road
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ENGINEERING
PLANNING
PROJECT MANAGEMENT
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CERTIFICATION
ABN 26 134 067 842

Dear Sir,

275 Bong Bong Road, Broughton Vale
Submission re: DA20/2056 for proposed Tourist and Visitor Accommodation

1. Introduction

This submission has been prepared by Barker Ryan Stewart on behalf of the owners identified below. The submission is in response to the notice of proposed development application issued by Shoalhaven Council for the property at 275 Bong Bong Road, Broughton Vale (DA20/2056).

Land Owners	Address
Peter & Wendy Priddle	268 Bong Bong Road
Bevis Pyle & Jann Walsh	258 Bong Bong Road
Lee & Jo Hopperton	225 Bong Bong Road
Margaret & Ted Street	209 Bong Bong Road
John & Natasha Marshall	210 Bong Bong Road
Louise & Arch Barton	210A Bong Bong Road
Bill & Julia Woinarski	210B Bong Bong Road
Jeremy & Susan Smith	210C Bong Bong Road
Leanne & Greg Crisp	210D Bong Bong Road
Dennis & Lindy Callaghan	210E Bong Bong Road

Key surrounding properties to be impacted by the proposal are identified in the locality map at Figure 1. Please note the resident group have confirmed that 25 properties have indicated that they object to this proposal.

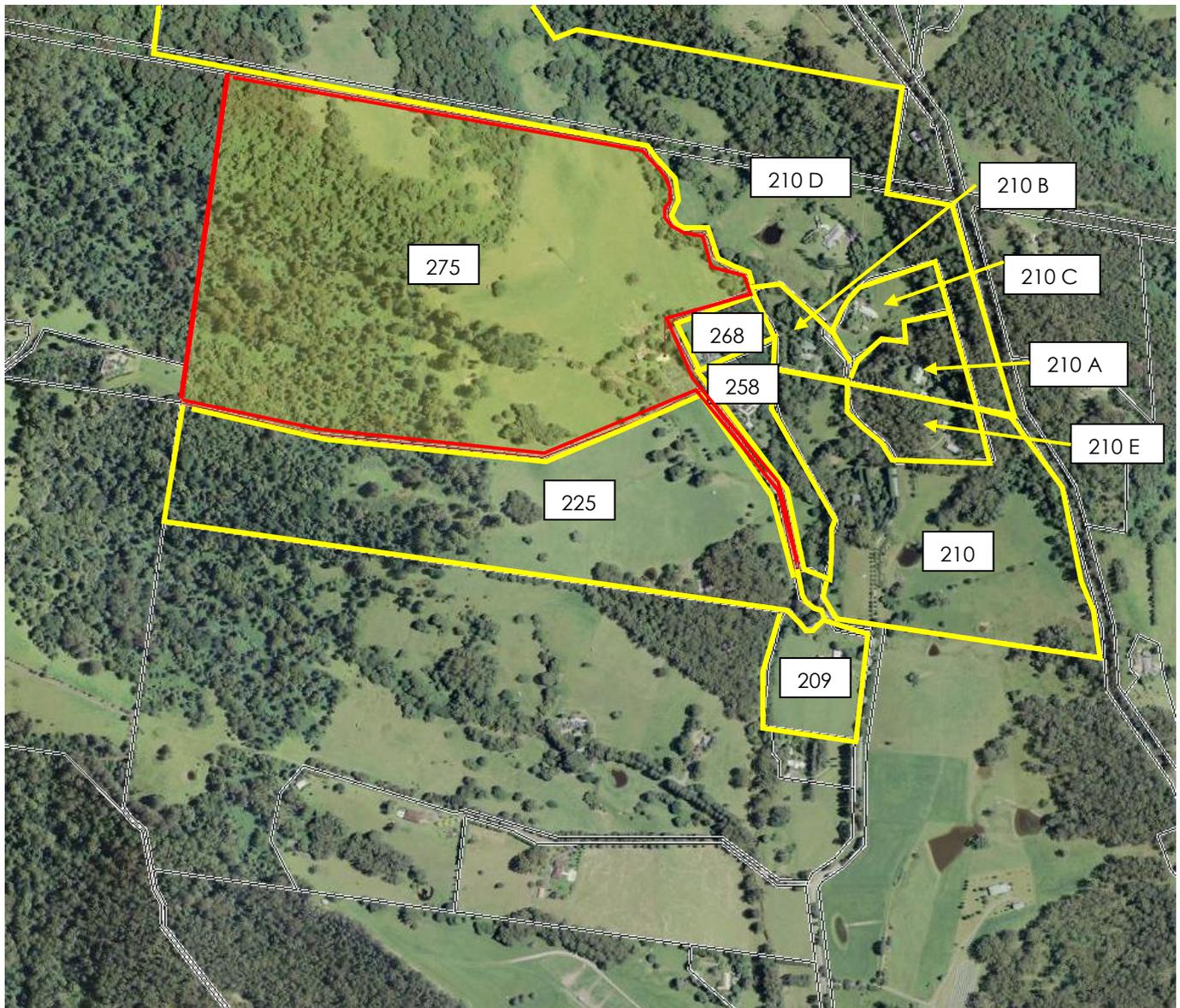


Figure 1: Aerial view of main surrounding properties to be impacted by the proposal

2. Proposed Development

The proposed development, formally located on Lot 102 DP 703530 at 275 Bong Bong Road, Broughton Vale, comprises Tourist and Visitor Accommodation (7 cabins), swimming pool, communal area and dwelling additions. An extract from the Site Plan is provided at Figure 1. More detailed description of the proposal is provided below:

Stage 1 (Shown outlined orange in Figure 1 below)

- Demolition works
- Tourist cabin No 7 with large outdoor deck, dog yard and service yard.
- Dwelling extension/Detached habitable rooms (and attached rural shed).
- Driveway upgrade from Bong Bong Road to detached habitable rooms – including turning head for fire trucks.
- Effluent disposal system serving the dwelling, detached habitable rooms and Cabin 7.
- Pathways, landscaping and parking.
- Service area compound at southern end of enclosed orchard.
- Installation of stormwater, water tanks and pumps within the service area.

Stage 2 (Shown outlined red in Figure 1 below)

- Two new bridge crossings of the existing creek.
- Access road from service area to southern side of creek, including turning head and passing bays for emergency service vehicles.
- Six tourist cabins (No's 1-6) on southern side of creek.
- Water and electrical service connections for all cabins.
- Effluent disposal system for six tourist cabins.
- Pool, pavilion, communal BBQ and amenities area.
- Parking areas, retaining walls, access ramps and walking paths.
- Landscape planting, landscape furniture and path lighting on southern side of the creek.
- Additional service areas, water tanks and storage shed.
- Fencing of 0.56ha remnant eucalypt forest.

* It is noted that the Site Analysis Plan submitted with the DA does not adequately identify surrounding development in accordance with section 5 of G1 (SDCP 2014) thereby limiting the capacity of Council to review the surrounding locality.

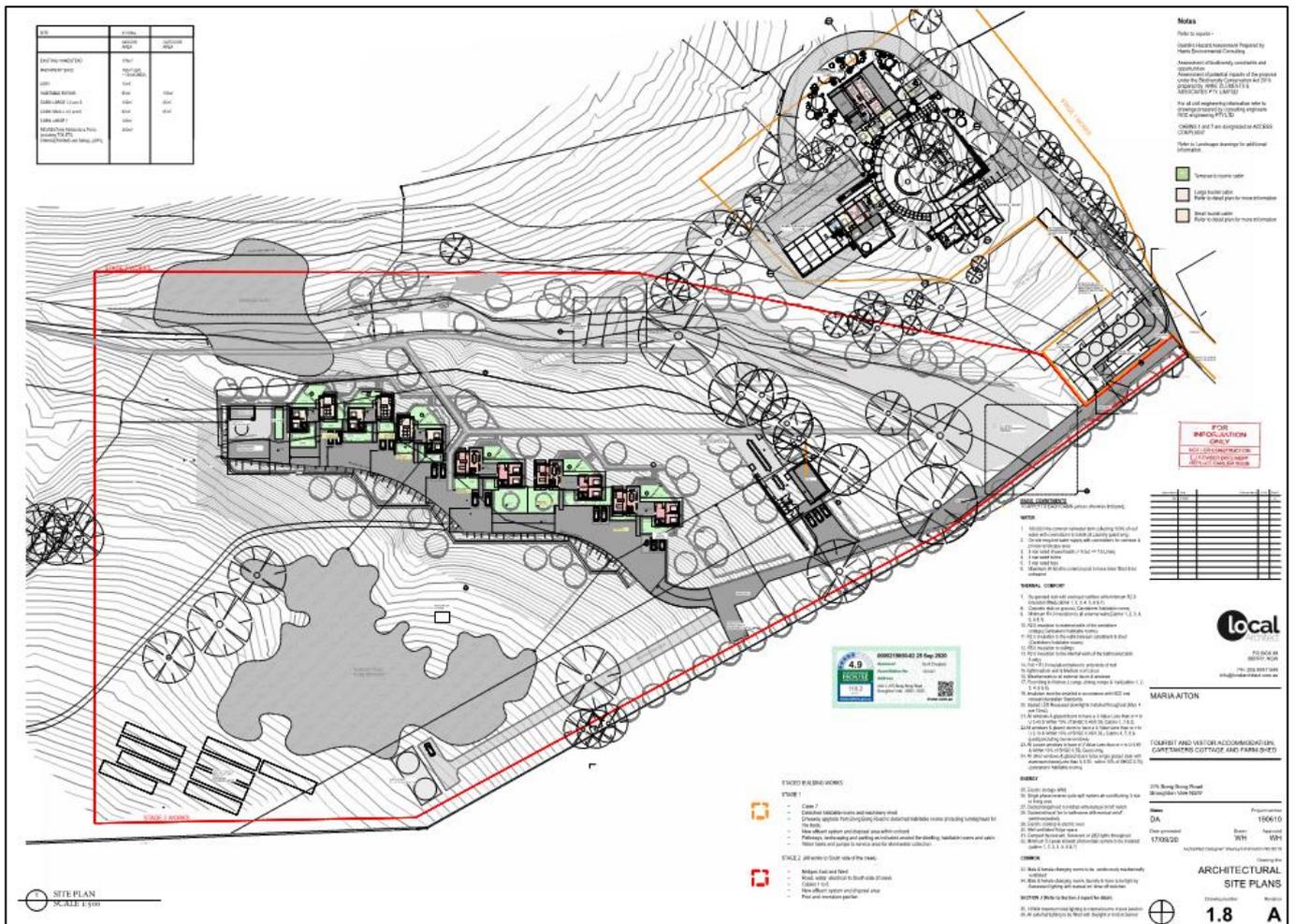


Figure 2: Extract from proposed Site Plan

3. Site and Locality Analysis

The irregular shaped site is located approximately 4.4km from the Berry township and is accessed via an existing single lane right of carriageway that supports vehicle access to two properties; 258 and 268 Bong Bong Road. Once completed, No. 225 Bong Bong Road will also utilise the right of carriageway for access to the approved equine stables. The right of carriageway is reciprocal for all three allotments.

The site exhibits sloping topography with two watercourses; Connelly's Creek and an unnamed tributary, located within the allotment. Existing private driveway access is dilapidated and the public road linking the site to Bong Bong Road is narrow, winding and constrained by a narrow bridge and blind corners. It is also subject to flooding.

The site is zoned part RU1 Primary Production and part E3 Environmental Management under Shoalhaven Local Environmental Plan (SLEP) 2014. Existing rural character is maintained through large lot single dwelling developments along Bong Bong Road with limited secondary farm style guest dwellings and associated agricultural outbuildings.

Surrounding development (refer to Figure 3 below) generally includes:

- To the north: rural development with environmental values, zoned E3 and E2;
- To the east: Rural residential development including a number of high quality single dwellings with landscaped outdoor provision and small scale agricultural holdings;
- To the south: Rural residential development including 225 Bong Bong Road which exhibits development consent for a dwelling house and stables in close proximity to the common boundary; and
- To the west: Heavily vegetated rural residential development.



Figure 3: Aerial view of site and surrounding development (Nearmap 2020)

Barker Ryan Stewart have reviewed the documentation relating to this development application and outline the following issues for Council's consideration:

4. Permissibility and Classification of Tourist Cabins

The classification of the proposed 'Tourist Cabins' development under the umbrella term 'Tourist and Visitor Accommodation' is vague and the development description provided throughout the Statement of Environmental Effects appears to align more accurately with the definition of "farm stay accommodation" as identified in the extract from SLEP 2014 dictionary below.

farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

Note—

See clause 5.4 for controls relating to the number of bedrooms.

Farm stay accommodation is a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.

The SEE provides the following confirmation that grazing and agricultural activities will continue within the site and that proposed tourist cabins will provide an additional income source for the land:

- The existing agricultural grazing activities are intended to continue over the whole of the site.
- The presence of tourist cabins will not prevent the land from continuing agricultural grazing.
- The proposed tourist and visitor accommodation provides an additional income source for the land while allowing the existing grazing activities to continue.
- The proposed development does not fragment the rural land through earthworks, subdivision or other physical barrier. Grazing activities can continue around the proposed tourist cabins.
- The proposed tourist cabins will not reduce the agricultural capacity of surrounding land. The use of the site for tourist accommodation does not present any risks of contamination.

It is therefore understood that the proposed development will act as an ancillary land use providing a supplementary income to the owners of the site. This should be confirmed by the applicant during the assessment process. The proposed use and justification appear to be more consistent with the definition of Farm Stay Accommodation which through Clause 5.4 of the SLEP 2014 caps development yield for this type of accommodation at 7 bedrooms. Please note, Clause 4.6 specifically identifies Clause 5.4 development standards as standards that cannot be varied by way of a clause 4.6 application.

It is acknowledged that Shoalhaven Development Control Plan (SDCP) 2014 provides a definition of Tourist Cabins which is a type of Tourist and Visitor Accommodation as defined in SLEP 2014. Tourist cabins are not however identified as a specific land use under the umbrella classification of "Tourist and Visitor Accommodation". It is therefore difficult to ascertain how Council categorises this type of development and it is requested that Council review and provide clarification as to the characterisation of the proposed land use taking into account the ancillary nature of the proposed tourist accommodation in order to maintain consistency with the RU1 zone objectives. As shown below, the SLEP 2014 RU1 zone objectives require an overarching commitment to maintenance and enhancement of the natural resource base including minimising the fragmentation of resource lands:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To conserve and maintain productive prime crop and pasture land.
- To conserve and maintain the economic potential of the land within this zone for extractive industries.

Based on our review of the proposed development, it should be re-considered as Farm Stay Accommodation and the yield limited to 7 bedrooms in accordance with the provisions of the SLEP. Permitting greater accommodation on a working farm will potentially reduce its farming and agricultural capacity and create potential conflicts.

5. Permissibility of Detached Habitable Rooms

The proposed development incorporates a two bedroom dwelling that has been categorised as 'detached habitable rooms' for the purpose of complying with SDCP 2014 Clause 6.3.2. There are a number of inconsistencies identified in the design following review of SDCP 2014 and the proposed detached rooms are considered to further represent the overdevelopment of the site.

The proposed 'habitable rooms' incorporate gross floor area of 105m² in addition to 15m² for a dedicated laundry space accessed from the machinery sheds and 105m² of private open space. The design, scope and scale of the building is inconsistent with the intent of SDCP P27 that requires the primary dwelling and the detached habitable rooms to operate as a single dwelling house. The two dwellings will not function as a single house and will clearly promote opportunity for separate rental or occupancy of both buildings as separate domiciles.

The additional 'habitable rooms' provide bathroom and kitchen facilities with a laundry located under the same roofline. For the purposes of characterising the proposed development, the habitable rooms are considered to be self-contained and the proposal is inconsistent with P27 which requires the detached rooms to be reliant on the principal dwelling for laundry, bathroom or kitchen. Plans confirm the principal dwelling has its own bathroom, laundry and kitchen.

The proposed covered walkway access between the primary dwelling and the detached habitable rooms is designed entirely to meet the provisions of the DCP clause. The detached habitable rooms provide fenced outdoor open space that is independent of the primary dwelling and will function as a separate dwelling. The habitable rooms are therefore considered to represent a separate accommodation and it is requested that Council review and provide clarification on the permissibility of this additional development based on LEP and DCP controls.

Further to the above, the design of the proposed laundry will readily provide internal access through future construction of a door into the bedroom or shed walkway. Refer to Figure 4 extract of architectural Site Plan below identifying the independent design of the two buildings and non-compliant laundry location.

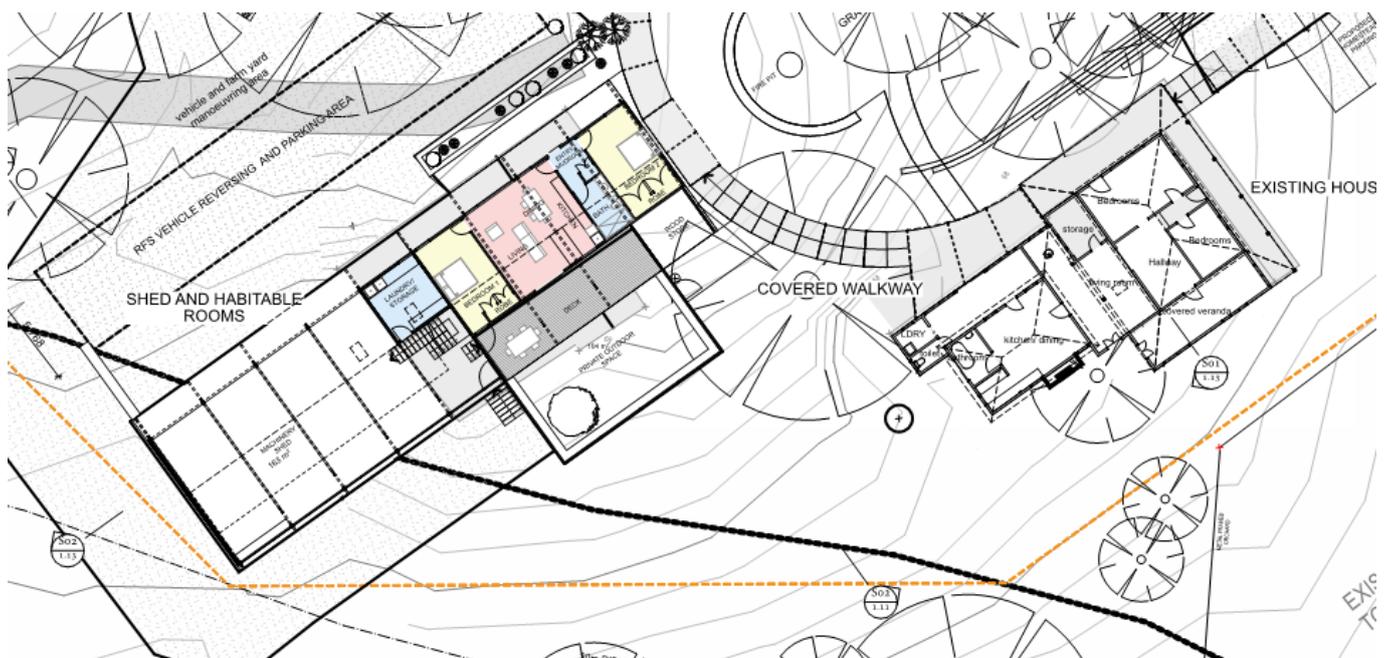


Figure 4: Extract from Proposed Site Plan identifying Detached Habitable Rooms

6. Variation to Tourist Cabin Floor Area Control

The site is afforded no maximum Floor Space Ratio in SLEP 2014. Accordingly, if not considered as Farm Stay Accommodation, the density control mechanism for the site is provided in Chapter G15 of SDCP 2014 and

the SDCP Dictionary, which outlines the following definition of floor area and control for Tourist Cabins:

Floor area of a guestroom or tourist cabin when used in reference to Chapter G15: Tourist and Visitor Accommodation means the area of a guestroom or tourist cabin, measured within the finished surfaces of the walls, and includes the area occupied by any cupboard or other built-in furniture, fixture or fitting and all decks and verandahs.

A1.1 The floor area of a single tourist cabin does not exceed 120m²

The development proposed incorporates significant variations to the maximum 120m² floor area for Tourist Cabins as identified on the proposed Site Plan. This is mainly due to the definition also including "all decks and verandah areas". Refer to Table 1 below for details of non-compliance.

Table 1: Cabin Non-Compliance

Cabin	Size	Compliance
Cabin 1	165m ²	Does not comply. Cabin 1 incorporates a variation of 31% to the 120m ² DCP control.
Cabin 2	165m ²	Does not comply. Cabin 2 incorporates a variation of 31% to the 120m ² DCP control.
Cabin 3	165m ²	Does not comply. Cabin 3 incorporates a 31% variation to the 120m ² DCP control.
Cabin 4	125m ²	Does not comply. Cabin 4 incorporates a 4% variation to the 120m ² DCP control.
Cabin 5	125m ²	Does not comply. Cabin 5 incorporates a 4% variation to the 120m ² DCP control.
Cabin 6	125m ²	Does not comply. Cabin 6 incorporates a variation of 4% to the 120m ² DCP control.
Cabin 7	257m ²	Does not comply. Cabin 7 incorporates a variation of 72% to the 120m ² DCP control.

The Statement of Environmental Effects incorrectly identifies all tourist cabins as 'compliant' and fails to provide any justification for proposed variation to the control. Four cabins incorporate variation of between 31% and 72% which represents a significant breach of planning controls and one that cannot be supported by Council. At 257m², Cabin 7 exhibits design and size characteristics representative of a large single dwelling home. The 'cabins' do not resemble small tourist accommodations as intended by Council and the design is inconsistent with the DCP which requires tourist accommodation in rural areas to 'be of a rural nature and consistent with the surrounding areas'.

7. Consistency with SDCP 2014 G15 - Tourist and Visitor Accommodation

Review of the SDCP G15 Objectives has been undertaken and inconsistencies with the proposed development are identified in Table 2.

Table 2: Shoalhaven DCP 2014 Objectives Consistency

DCP Objective	Comment
iii. Address issues of cumulative impact and ecologically sustainable development	Cumulative impact on surrounding development has not been adequately reviewed or addressed in the SEE. The proposal is not supported by an Acoustic Report, Traffic Impact Assessment, Visual

DCP Objective	Comment
	Impact Assessment or Road Safety Audit of existing public and private vehicle access roads. In addition, the DA also overlooks the cumulative impacts to character associated with a medium density scaled development at the end of a rural dead end and associated cumulative construction impact. It also creates a potential precedent for other development of a similar nature to occur in the locality.
iv. Encourage innovative, well designed, quality development which will support and enhance tourism.	The proposal is considered to more readily align with medium density design principles which provide for intensification of certain sites based on suitability. Due to the sloping topography, bushfire concerns, flood constrained access and existing rural character, the site is not suited to tourist development nor has the proposal been designed to support and enhance tourism for surrounding development. It will detract from the rural nature of the locality and the agricultural potential of the site.
vii. Protect the amenity and privacy of adjoining residents.	<p>The proposed resort style development will be located within sloping topography at the base of a natural amphitheatre. The potential amenity impacts associated with vehicle noise, music, human acoustics, use of the resort style pool and outdoor communal area have not been considered in the design of the built form or within technical reports and the Statement of Environmental Effects.</p> <p>There is no guarantee that this resort development will not severely impact amenity and privacy and Council have a responsibility to refuse the development or request additional documentation to fully identify potential amenity impacts and consider mitigation strategies should an approval of some form be granted.</p>
ix. Ensure the density of development in a particular locality is appropriate to the constraints of the land and is sustainable in the long term.	<p>As identified above, the site is steeply sloping with several watercourses traversing the proposed development footprint. The scale of proposed development will reasonably support upwards of 60 persons on the site at any one time and the density of the proposal is considered to be inappropriate for the rural nature of Bong Bong Road.</p> <p>Following review of the DCP, significant variation to building density has been identified with Cabin 7 proposed at a variation of 72% above the control. The Statement of Environmental Effects has been written in error and the proposal is entirely non-compliant with the density control for tourist cabins.</p>
xiii. Maintain the agricultural potential and prevent fragmentation	The proposed development footprint appears to impact a significant portion of the lower land suitable for agricultural activities. Whilst the SEE identifies that cattle will be afforded the

DCP Objective	Comment
	<p>opportunity to graze freely between tourist development, the reality is that safety and security of visitors, including children, will likely mean that tourist accommodation will be fenced and agricultural land further fragmented. Given the site is zoned RU1 for primary production, Council should be certain that the tourist accommodation will not form the primary land use as this would function totally inconsistent with the objectives of the RU1 zone. As previously stated, the proposal is more closely related to Farm Stay Accommodation and should be limited to 7 bedrooms, not 7 cabins.</p>
<p>xiv. Recognise the risk of natural hazard in some areas and ensure that development is designed and located to minimise the risk.</p>	<p>The private right of carriageway and public road/ bridge infrastructure is subject to significant flooding during events of heavy rainfall. Local residents have confirmed this can occur up to twice a year with access cut and residents 'flooded in'. See photos provided in flooding discussion for further justification. Increasing the potential for human lives to be at risk, not only for visitors but volunteers needing to assist, is not acceptable. At a minimum a detailed flood evacuation plan should be considered.</p>
<p>XV. Ensure vehicular access is safe and adequate for the scale of the proposed development.</p>	<p>Current private right of carriageway access is proposed to be upgraded to accommodate significant increase to vehicle movements per commentary in the SEE. No assessment has been provided of the current state of the public road or bridge providing access to the development site and a number of rural residential sites adjacent.</p> <p>The existing public road reserve is dilapidated and Council waste vehicles will not cross the existing bridge to collect residential waste. This is a clear indication that the current infrastructure cannot support intensification of the scale proposed.</p> <p>Concern is raised that if the bridge is not suitable for waste vehicles, how will materials be delivered to the site for construction and further how will the waste for such a large development be collected. There is no guarantee a private waste contractor will cross the bridge either.</p> <p>Refer to traffic and parking discussion for further inconsistencies in the proposed design.</p>

Further to the inconsistencies with DCP objectives discussed above, controls are also provided for Tourist and Visitor Accommodation in rural areas. See Table 3 below for discussion of Clause 5.3 - Tourist Development in Rural Areas.

Table 3: Clause 5.3 Discussion

DCP Objective	Comment
<p>i. Ensure the density of development is sustainable and has minimal impact on the environment.</p>	<p>The proposed density is representative of multi dwelling housing and incorporates significant variation to the density control. Likely impacts to</p>

DCP Objective	Comment
	water quality, visual amenity and acoustics will be generated, thus the proposal is inconsistent with this clause.
ii. Provide tourist development forms that is compatible the rural character of the area	The tourist development is incompatible with the rural surrounds based on review of density, design, provision of significant outdoor entertaining facilities/ communal area and intensification of a site that was not designed to accommodate a tourist resort. The development represents an urban resort style precinct that happens to be proposed in a rural location. Councils site inspection will confirm the incompatibility of the proposal with the rural character of the area.
iii. Ensure the impact of development on the amenity of rural areas is maintained and the impact on neighbouring areas is minimised.	The proposal will generate unacceptable amenity impacts to the rural landscape as discussed. Impact on neighbours will be exacerbated by non-compliant density of cabins and internal roads that will support an unacceptable increase in internal and external vehicle movements. No acoustic or visual impact reports have been provided to justify impacts to neighbours and the overdevelopment of the site.
iv. Ensure that native vegetation and water quality is protected.	Two mapped watercourses traverse the site with two bridges and a causeway proposed to negotiate the sloping topography to the Stage 2 development footprint. Significant development in the form of internal roads, hardstand parking areas and bridge infrastructure will alter the landscape and there are no guarantees that water quality within the creek systems can be protected through construction and operation of the resort style development. Stage 2 effluent disposal areas are located uphill from creek systems and subsequent impacts have not been adequately reviewed.
v. Ensure that multiple forms of tourist development on one property are consistent with the acceptable density standards.	The proposed density and floor area of development is non-compliant and will generate adverse impacts to surrounding development. Council support for variations of this capacity will set a dangerous precedent for development of rural lands in the Shoalhaven given that the proposal completely overlooks the acceptable size of a tourist cabin.

8. Visual Impact and Privacy

The proposed design is inconsistent with the following performance criteria (G15 Shoalhaven DCP - Tourist and Visitor Accommodation):

P1.1 Visual impact on scenic, natural landscape and adjoining properties is minimised.

P1.2 Visual impact is not excessively impacted by the scale or built form of the development.

P1.3 Materials and built form are sympathetic to the character of the area.

The resort style development will adversely impact the scenic landscape through integration of incompatible density, style and amenity impacts to the unique rural landscape. In addition, the scale of the Tourist Accommodation is considered to be highly unsympathetic to the existing visual character of

the area with side elevations more reflective of detached multi-unit housing. The development will be highly visible from Woodhill Mountain Road which is a well-known tourist drive in the Shoalhaven and visual impacts are considered to be completely unacceptable.

Privacy impacts are a major concern for all residents located on Bong Bong Road due to the significant increase in vehicle movements and persons travelling past rural residential dwellings. The proposed development will be visible from No's: 268, 258, 225, 210 Bong Bong Road and highly visible from Woodhill Mountain Road. In addition to sites on Bong Bong Road, a recent site inspection confirmed the proposed development is likely to generate unacceptable visual privacy impacts to the following surrounding dwellings:

268 Bong Bong Road

Cabin 7 and associated entertaining deck and communal fire pit is orientated directly towards existing outdoor entertaining facilities associated within the adjacent site at 268 Bong Bong Road. Given the proposed tourist rental nature of Cabin 7, it is considered that the location, size and orientation of significant outdoor deck space within this building will facilitate direct sightlines and acoustic/ privacy impacts to the residents of 268 Bong Bong Road.

Photographs are provided below identifying existing outdoor amenity associated with 268 Bong Bong Road and the proximity to the proposed siting of Cabin 7. The impact of road extensions to service the Cabin 7 and the detached habitable rooms is of concern given that no design provision for adequate privacy screening has been proposed. In addition, the proponent has designed the service area, water tanks, pump stand and plant equipment in close proximity to the entry to the residential dwelling at 268 Bong Bong Road which will completely alter the existing entry aesthetics to the site. Likely due to the small availability of flat topography suited to service infrastructure, the location of these disposal areas will exacerbate the visual and acoustic impacts associated with service vehicle movements. This prominent entry to the site and surrounding development is unsuitable for this scale of service facilities.



Photograph 1: Location of homestead and detached habitable rooms clearly visible from within adjacent 268 Bong Bong Road



Photograph 2: Location of Cabin 7 from 268 Bong Bong Road

225 Bong Bong Road

225 Bong Bong Road is located to the south of the site and shares a common boundary which traverses sloping topography from south west to north east. Vehicle traffic accessing the site will be visible from the newly constructed dwelling house and following a site visit and subsequent review of the panorama photo provided in the SEE identifying the partially visible roofline of this dwelling, it is considered that the Stage 2 cabins will be highly visible from the dwelling at 225 Bong Bong Road. Taken at ground level on the boundary line, Photograph 3 shows that almost the entire house is visible with direct sightlines to the property at 225 Bong Bong Road to be exacerbated by the height of the outdoor room and living areas.

225 Bong Bong Road site exhibits prior DA approval for Stages 2 and 3 of development which will comprise of a dwelling and associated access road with equine stables and dressage arena located to the north of the site. The proposed development and SEE appear to discount the siting of the approved development at 225 Bong Bong Road and approval of the Tourist Accommodation would generate significant impact, particularly in the area of the horse stables which will be highly sensitive to noise.



Photograph 3: View of 225 Bong Bong Road from the common boundary - whole house visible at ground level

210D Bong Bong Road

210D Bong Bong Road is located to the north east of the site in an elevated position with direct views over the proposed development footprint. The residents currently experience high levels of visual privacy which have been maximised through considered siting of residential development and landscaping.

The proposed Stage 2 development and infrastructure will be visible from the majority of 210D Bong Bong

Road and its residence. The elevated position of the proposed Stage 2 development will generate impacts to residents utilising outdoor spaces and is likely to limit the developable area of 210D Bong Bong Road due to direct sightlines from across the valley.

Refer to Photograph 4 which provides a clear view of the ridgeline intended to accommodate the tourist development.



Photograph 4: View of the development site from 210D Bong Bong Road

9. Impact of overdevelopment - size, scale and design

The non-compliant scale, size and design elements of the proposed 'cabins' have been reviewed and the following concerns are raised in relation to overdevelopment of the site:

- Cabin 7 is four bedroom in size plus large deck, service yard and enclosed dog yard. The Cabin is segregated from the other tourist accommodation and provides limited connectivity to the communal facilities. The design of the cabin more readily resembles a detached dwelling and it is requested that Council review the functionality and intent of this outlier location for tourist accommodation.
- The proposed detached habitable rooms are fully self-contained and incorporate two bedrooms totalling 105m² with an additional 105m² private open space provision. The habitable rooms will easily function as an independent accommodation space suitable for holiday occupation or permanent separate domicile by four (4) people.
- The six (6) tourist cabins associated with Stage 2 would readily identify as urban style multi-unit housing development based on the significant size and opportunity for occupation by six (6) or more persons. The elevational concept provided in Figure 5 reinforces multi-unit design elements

that are not sympathetic to or in keeping with the existing rural character of the area. They each include 2 - 3 bedrooms and 1 - 2 separate toilet facilities.

- Inadequate building separation between Stage 2 cabins exacerbates the impacts of overdevelopment with limited opportunity for reasonable internal mitigation of acoustic and visual privacy for persons using cabins.
- Internal cabins 1-6 range in size from 65m² - 100m² however the design incorporates covered outdoor rooms forming an entertaining pavilion linking living and sleeping areas. The covered outdoor rooms are included in the floor space for tourist cabins and this addition will greatly increase the liveable floor space of the dwellings thus providing opportunity for other sections of the internal space to be utilised for additional beds. This would render parking, effluent disposal and water calculations all insufficient.



Figure 5: Extract from submitted Architectural Plans - "View from creek looking south"

10. Potential for the Recreation Pavilion to be used for Functions

The recreation pavilion (257m²), swimming pool, guest laundry, toilets, change room and kitchen area will provide ample opportunity for the site to be used as a function centre. This could be informally undertaken through guest and visitor use of the facilities where a DA would not be required for events. It should be noted that Function centres are prohibited in the RU1 zone and this area should not be able to be used for weddings or other large functions which will increase effluent, environmental and acoustic impacts of the development that have not been considered.

Based on readily available information relating to capacity of function spaces, a 275m² area could reasonably accommodate at least 200 persons seated (1.25 m²) and over 320 standing (0.84m²). Further, typical marquee size and capacity information is provided below for reference.

The location of the recreation area sited on sloping topography is likely to generate amenity impacts that are typical of resort style development. Impacts would be channelled down the sloping topography and across the valley to surrounding development. The site and surrounding valley location is therefore considered to be unsuitable for these facilities and the sensitive acoustic environment will be significantly impacted by use of the pavilion by at least 40 persons.

Marquee Size and Capacity Guide

Please note that these sizes are allowing for the maximum possible - actual capacity may vary etc.

Marquee Size Feet / Meters	Approx. Number of guests		
	Standing	Buffet with some guests at tables	8-10 people seated at tables
12ft x 12ft (3.6m x 3.6m)	20	10	10
20ft x 10ft (6m x 3m)	30	10	20
20ft x 20ft (6m x 6m)	60	40	40
20ft x 40ft (6m x 12m)	120	90	80
30ft x 30ft (9m x 9m)	130	90	90
30ft x 40ft (9m x 12m)	192	120	120
30ft x 50ft (9m x 15m)	240	150	150
30ft x 60ft (9m x 18m)	288	190	180
30ft x 70ft (9m x 21m)	336	210	210
30ft x 80ft (9m x 24m)	360	280	240
30ft x 90ft (9m x 27m)	405	320	270

11. Incompatibility with the established character of Bong Bong Road

The established rural character of Bong Bong Road is easily ascertained from Photographs 1-3 above. Single dwelling farmhouse style development with generous rural setback is common in the locality. A site inspection confirmed that multi dwelling housing development with limited building separation is not.

Development in Broughton Vale is generally designed with an emphasis on open space, landscaped aesthetics and an appreciation for neighbours, existing amenity and the future character of the unique surroundings. The proposed development is inconsistent with the following objectives that form an assessment of local character and context within Shoalhaven DCP Chapter G15: Tourist and Visitor Accommodation:

- i. Conserve the rural character and environmental quality of the local area enjoyed by residents of, and visitors to Shoalhaven.*
- iii. Address issues of cumulative impact and ecologically sustainable development.*
- ix. Ensure that the density of development in a particular locality is appropriate to the constraints of the land and is sustainable in the long term.*
- xiii. Maintain the agricultural potential and prevent fragmentation of rural land.*

The proposed development appears to function as multi dwelling housing or tourist resort within an established single dwelling locality and is inconsistent with a number of objectives that require compatibility with the character of existing buildings and the prevailing streetscape. Adjacent properties at 268 and 225 Bong Bong Road currently incorporate single dwelling, large lot design with traditional façade and detached garage or guest house. The proposed development is highly incompatible with the adjacent properties and the proposal will generate detrimental impacts to the landscape and built form of Bong Bong Road.

The visual aesthetics and articulation of the development, as viewed from side boundaries, does not contribute to the existing character of the local area nor is it consistent with recently constructed rural dwellings in the locality. The number and distribution of future dwellings on the site will significantly alter the amenity of the area through a concentrated and localised injection of medium density style development. Should the proposed development be supported by Shoalhaven City Council, the cumulative impact of this, inclusive of unacceptable amenity impacts, will be dealt with by surrounding residents that have strictly adhered to LEP controls and DCP objectives that guide the provision of compatible development and

assist with maintenance of desired character.

12. Acoustic Impact

Clause 5.1.4 of Chapter G15 (SDCP 2014) provides the following Performance Criteria and Acceptable Solution in relation to acoustic impacts to existing amenity:

P13 To minimise noise nuisance and loss of privacy to adjoining residents, as well as for guests of the proposed tourist development.	A13.2 Noise level from the premises measured at the property boundary does not exceed background levels by more than 5 dba.
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The Statement of Environmental Effects indicates the proposal is capable of compliance however an Acoustic Impact Assessment has not been prepared / provided to substantiate this claim given that ten (10) homes will be directly impacted by the acoustics of this proposal. Council cannot support this development without ascertaining the full acoustic levels likely to be generated and applying these to the unique valley amphitheatre environment which exacerbates any noise impacts. Voices can be heard from many kilometres away in this rural environment and preparation of an Acoustic Report should be required by the proponent with additional notification period providing opportunity for objectors review and comment on the report's contents.

The proposal will facilitate construction a combined Gross Floor Area of 1,172m² on the site not including the recreation pavilion which will provide an additional 257m² of useable floor space or covered outdoor areas within Cabins 1-6 which will contribute to a further 390m² of entertaining floor space. The total useable floor space to be constructed within the site appears to be over 1,800m² which represents a gross overdevelopment of a rural site and it is further questioned whether the blanket acoustic decibel thresholds for tourist accommodation should apply to rural zoned land.

Elements of the proposal that are likely to generate unacceptable acoustic impacts to surrounding development include:

- Increased off site vehicle movements associated with staff, holiday makers, service vehicles, farm plant and equipment, deliveries and visitors of rental guests. The existing right of carriageway currently supports approximately 8 vehicle movements a day which, based on a conservative assessment, will increase to at least 40.
- Increased on site vehicle movements associated with the above vehicles. Steeply sloping topography is likely to exacerbate acoustic impacts associated with Stage 2 guest vehicle movements within the new roads.
- The large covered outdoor areas of 65m² provided within each Cabin 1-6 will facilitate outdoor entertaining that will contribute to acoustic impacts and amenity loss for neighbouring development.
- The large recreation pavilion will have the capacity to accommodate functions and events within the dedicated 257m² space. The pavilion provides all required amenities to support future weddings or events that would contribute to amenity loss.
- Unacceptable noise generation from ancillary pumps, effluent treatment system and a possible backup power source given power outages are common.

13. Light spill

Lighting required to adequately support a resort style development of this scale is likely to adversely impact the reasonable enjoyment of surrounding rural residential land. Light spill will be exacerbated by:

- The elevated location of the Stage 2 cabin infrastructure and internal roads;
- Proximity of new Stage 1 development to 268 Bong Bong Road;
- Additional vehicle movements associated with the resort style development; and
- The recreation pavilion and associated lighting sited to overlook a number of rural residential development.

The SEE does not provide adequate confirmation that the proposed lighting required to service the site will not generate unacceptable light spill and associated amenity impacts on surrounding development. It is highly unlikely that this could be adequately justified in any case, given the impacts of stationary light from cabins, function area, landscaping, signage and the residences, in addition to moving traffic lights at night, will be significant.

14. Traffic and Access

Access

The proposed development is located at the end of a dead end private right of carriageway accessed from a dilapidated public road. Existing bridge infrastructure appears inadequate to accommodate additional trip generation associated with a tourist resort and the bridge, measured at 3.1m wide for a length of 8.1m, does not include safety bollards for the entry and exit points or railings to prevent vehicles dropping 2m into the creek system. Councils site visit will confirm the state of the bridge; cracks can be identified throughout with concrete and boulders being dislodged from the underside as a result of the velocity of floodwater travelling down the slope. The dog leg corner prior to the bridge also renders the access unsuitable for many trucks which cannot safely negotiate the corner - refer to photographs 4 and 5 for confirmation.

The road verge is eroded and with drop offs either side posing great risk to tourists who are not familiar with the roadway. The road surface is also sub-par and is worsening with use by the existing resident base. It is unclear how the road surface could cope with an additional 40+ vehicle movements a day in addition to complex servicing needs for a tourist resort.

It is acknowledged that the proponent includes upgrade of the right of carriageway to facilitate additional vehicle movements in this DA. The public road and bridge infrastructure however is not mentioned in the SEE or development plans and a site visit confirmed the public road access in its current state is unlikely to safely cater for the vehicle movements discussed below. SDCP 2014 provides the following controls for access to tourist development:

A15.8 Where a right of way requires substantial upgrading or will be substantially impacted by the tourist development, a separate Development Application may be required together with the consent of each owner whose property is affected by the development and associated upgrading works.

A16.3 Depending on the scale of development and existing access, Council may require upgrading of the existing public road access to provide safe entry to the property.

A Traffic Impact Assessment (TIA) or Road Safety Audit has not been provided to support the proposal. Notwithstanding, it is considered that the public access road will require significant upgrades to accommodate a tourist resort. Given the proponent will significantly intensify the use of the site, Council should not be required to upgrade this access. The DA is therefore insufficient and does not provide a genuine assessment of existing access, nor does it review the impact on surrounding development that rely on the public access road. The road upgrading could also require the removal of vegetation and impacts on the creek system including potential habitats. This has not been considered in the application.

In addition to the above, it appears that owners enjoying right of way over existing access should be consulted to determine if they are in support of required upgrades. This objection letter, and individual letters drafted by surrounding residents, should be taken as a clear representation of residents dissatisfaction of the design and intensification of rural lands. Consent would not be provided for road upgrades to accommodate the proposed tourist resort.



Photograph 5: Looking south east to existing bridge



Photograph 6: Existing bridge within public access road

Traffic Impacts

The proposed development incorporates two parking spaces for each cabin (14 spaces) in addition to three (3) spaces for the communal area and three (3) spaces for the 'homestead'. Based on a conservative assessment and not including additional movements associated with service vehicles, the proposal is likely to generate in excess of 40 vehicle movements per day. This is likely to represent an increase of approximately 130% on existing use of the right of carriageway by all existing residents. Service vehicles, including farm vehicles, cattle trucks, deliveries and garbage trucks will further exacerbate the impact of the proposed development.

Whilst operational traffic is a major concern for residents, construction traffic impacts will present unacceptable impact to neighbours due to the size and scope of tourist development and associated ancillary roadworks. The proposal is located at the end of a dead end road and all residents located to the east will be impacted by excessive truck movements and construction deliveries. It is noted that recent construction at 225 Bong Bong Road required trucks to unload materials within the public road as they were unable to negotiate the bridge. The amenity impacts associated with unloading of materials on the side of the road to service this resort development will be completely unacceptable.

A Traffic Impact Assessment (TIA) has not been provided to justify that the proposed development will not generate unacceptable impacts to surrounding properties and the existing road network. A TIA and Road Safety Audit of the bridge must be prepared and provided to surrounding development for review within a secondary notification period. The TIA should also provide a comprehensive review of the existing bridge infrastructure and public road reserve to determine the upgrades required to support a proposal of this density, including the ability for waste vehicles to service the site.

Pedestrian Impacts

The submitted SEE states that "*the site is not suitable for pedestrian access from the street*" however this is incorrect given that residents and guests commonly use the public and private road access for walking, play and outdoor exercise activities. Significant traffic increases within public and private access points will impact the use of this space for existing and reasonable pedestrian activities. It is therefore concluded that the design and scale of the proposal has not taken into consideration the true character and use of surrounding development or access networks and should not be supported by Council.

15. Flood Impacts

The SEE maintains the site is not flood affected and the requirements of SDCP A16.6 do not need to be addressed. Access to the site is clearly flood prone and it would be remiss of Council to overlook this based on mapping. See photographs 6 and 7 for confirmation of regular flood events.

The Flood Report (ROC Engineering Design, 2020), fails to review the flood impacts generated within the right of carriageway vehicle access to the site and the public road access or bridge infrastructure also traversed by residents using this section of Bong Bong Road. The bridge across Connelly's Creek regularly floods, cutting access to the subject site and surrounding development during high weather events. Again this has not been discussed in the Flood Report or SEE which is considered to be unacceptable given the tourist development would significantly increase vehicle trips and occupancy of the site. Further, guests of the tourist accommodation would be unfamiliar with the road network, creek systems and flood evacuation protocols of the area which would add to the danger when crossing flooded creeks and the bridge infrastructure.

Photograph 6 confirms the extent of flooding over the existing bridge. It is near impossible to identify the road reserve during a flood event thus creating huge concerns for a tourist or family attempting to negotiate to evacuate and return to safety. Coupled with significant erosion on either side of the road reserve near the bridge, the safety impacts associated with increased density and associated vehicle movements, including heavy vehicles are likely to be exacerbated by two blind corners and insufficient bitumen width.

Council are urged to review the bridge and public road access, including site inspections taking into consideration the photographs provided below.

Stormwater calculations are also considered to be inadequate based on the engineering review provided at Appendix A.



Photograph 7: Flooding of the bridge in August 2020



Photograph 8: Flooding of the private right of carriageway - August 2020

16. Waste Management and Effluent

The proposal appears to provide 2 x 120L general waste and 2 x 120L recycling bins to service the Stage 1 development. Whilst this appears to potentially be adequate for Stage 1 – consideration should be given to the reality; there are 3 dwellings on the site – the existing, proposed extension and proposed cabin 7. For 3 dwellings, waste generation is usually 120L per dwelling per week. An additional bin for recycling and general waste should be provided however it is understood that there isn't enough room at the collection location for this to occur.

Although waste is proposed to be collected via private operator, the proponent should be required to detail the number and frequency of bin collections associated with Stage 2 to allow surrounding residents to reasonably ascertain the impacts associated with waste servicing, vehicle movements, odour and noise. A detailed Waste management plan should be provided for ongoing operation. Consideration of the ability for a waste vehicle to transverse the bridge access will need to be investigated as detailed above.

The proposal identifies the location of effluent disposal areas within an elevated area of the site above an existing stand of Eucalyptus Trees. It is noted that the proponents ecologist recommended that Eucalypt forest be conserved and 'enhanced'. It does not appear that this recommendation has been implemented. Further, the primary effluent disposal area is located on the high side of residential cabins with significant opportunity for seepage. The impact of this is unknown and the design is clearly inconsistent with the Soil and Site Assessment for Onsite Wastewater Disposal (Harris Environmental, 2020) which requires the SMF to be sited downslope of the buildings as follows:

The treatment system must be positioned on a stable, level base and be downslope of the development so there is sufficient fall from drainage outlets within the development. The location of the treatment system must be:

- *Downslope of the buildings from where wastewater is generated*

The adequacy of effluent absorption beds associated with the Stage 1 development is also questioned with the location, adjacent to a functional orchard and directly across from the driveway entry and dwelling at 268 Bong Bong Road, appearing to be unsuitable based on a review of the site analysis. Photos below indicate the location of the absorption pits are subject to stormwater flow that will be diverted straight into the adjacent site at 268 Bong Bong Road.

Please refer to additional review of proposed on site effluent disposal design prepared by BRS engineers at Appendix A.



Photographs 9-12: Stormwater flow from Location of Stage 1 Effluent Absorption Pits

Bushfire

Planning for Bushfire 2019 identifies that Special Fire Protection Purpose developments are extremely sensitive to the impacts of bushfire. Specifically, PBP 2019 provides the following:

The nature of SFPP developments means that occupants may be more vulnerable to bush fire attack for one or more of the following reasons:

- *they may be less aware in relation to bush fire impacts;*
- *they may have reduced capacity to evaluate risk and respond adequately to the bush fire threat;*
- *they may present operational difficulties for evacuation and or management;*
- *they may be more vulnerable to stress and anxiety arising from bush fire threat and smoke;*
- *there may be significant communication barriers;*
- *supervision during a bush fire may be difficult; and*
- *they may be unfamiliar with the area.*

Given the recent bushfire crises in the Shoalhaven, Council and the RFS should be certain that the proposed development, inclusive of a lengthy dead end driveway access, is suitable for a resort style development. Intensification of the site is likely to facilitate operational evacuation issues in an emergency with tourists unfamiliar with the site, surrounding road network and narrow, winding egress. Planning for Bushfire Protection regulations recommends a maximum length of dead end roads of 200m. The access to the site and cabins is considerably longer than 200m (in the order of 400-500m) and should not be supported.

Further to the above, the Bushfire Hazard Assessment (Harris Environmental, 2020) indicates that Cabin 7 requires an APZ of 40m to the east that cannot be accommodated within the subject site boundaries as shown in Figure 6. The report and mapping identifies a portion of the adjacent site at 268 Bong Bong Road as 'managed neighbours land' however this area has been replanted with native vegetation and consent for an easement for APZ will not be provided. Without an easement for APZ, there is no legal requirement for this area of 268 Bong Bong Rd to be retained as 'managed land' and it is unclear how the proposal can comply with PBP 2019.

The Bushfire Report confirms that any bridge infrastructure must be capable of supporting 23 tonnes in order to facilitate access for fire fighting vehicles. An assessment of the load rating of the existing bridge has not been undertaken and it is unclear if the bridge will need to be widened to 4m. A structural engineering assessment of the existing public access bridge is requested to determine if developer funded upgrades are required.



Figure 6: Extract from Bushfire Hazard Assessment (Harris Environmental, 2020)

17. Water Servicing

Town water is not connected to Bong Bong Road properties and residents are reliant on bore systems or rainwater tanks to service rural residential land uses and firefighting. It is indicated that the proposed tourist development will be primarily reliant on collection of rainwater via cabin roofs. However the recent climate fluctuations renders this method of servicing highly questionable given that records indicate Connelly's Creek has stopped or almost run dry every year since 1990. Without adequate rainfall, the development would require bore water, creek water or transport of drinking water via vehicle. All three are a highly unreasonable response measure for the following reasons:

- Heavy reliance on bore water is likely to lower the watertable and impact surrounding residents who utilise the underground extraction in sustainable volumes for gardening, cleaning and general rural residential practices;
- If ever required in the future, formal and long term extraction of water from creek sources requires a DA and whilst this is not proposed nor mentioned in the SEE, there is no guarantee that this would be supported by relevant authorities in the future; and
- Carting of water to the site via vehicle would significantly increase the volume of truck movements to the site thus increasing already unacceptable amenity impacts in relation to visual impact, noise and odour.

Further consideration of provision of permanent water source for bush fire fighting including associated pump should be considered, based on the proximity of vegetation and access limitations. This will put

further pressure on the sustainability of the site from a water management perspective.

18. Driveway and Internal Road Design

The proposed development incorporates a number of internal roads, including creek crossings. The internal road design significantly increases the visual impact of the development when viewed from surrounding development. The footprint of impermeable concrete proposed within this development should be reviewed in relation to the prevailing development type at Bong Bong Road. The proposed concrete site coverage is excessive and will facilitate substantial impacts to stormwater, visual amenity and the character of the rural environment.

This rural pocket of the locality generally supports single or secondary dwelling development with rural roads and the internal design is at odds with the character of Broughton Vale.

19. Section 88B Instrument

It is understood from the SEE that a Section 88B restriction burdens the site identifying the requirement for all new development to be sited further than 30m from a creek (restriction 1(a)). The SEE identifies that "it is not known why the restriction has been imposed" however a site inspection of the unique valley and natural watercourses surrounding the site indicate that the 88b restriction was likely imposed in an effort to maintain the natural beauty of the site and prevent overdevelopment that could harm sensitive receivers.

The proposed development includes encroachment into the 30m restricted zone and it is recommended that Council do not exercise their right to vary this section 88b restriction based on the need to maintain the rural landscape and prevent precedent for future development in the Shoalhaven having adverse impacts on the river system.

20. Potential Land Use Conflicts

The site and many nearby properties are classified as working agricultural holdings. The allotments in this location have been maintained as larger holdings to form a buffer between the higher density (smaller lots) in Berry and the mountain range to the south west. This helps provide setback and separation between residential development and mitigate agricultural impacts such as tractor noise, farm animals and the like. Allowing the tourist accommodation within such a sensitive environment, inclusive of significant site increase in guests (and potentially residents), could readily create land use conflicts. In addition, the precedent this proposal would create could mean that all large rural allotments in Broughton Vale could potentially support 9 dwellings, instead of the typical 1-2 dwellings.

As a minimum, a land use conflict assessment should be undertaken in accordance with NSW Primary Industries *Land Use Conflict Risk Assessment Guide* to ensure the tourist development will not impact the primary function of RU1 zoned agricultural land on the site and other properties in the area.

21. Staging Issues with the Development

SDCP 2014 Chapter G15 confirms the required staging of tourist development as follows:

A30.3 If the development is staged, the first stage must include a minimum of three tourist cabins and one tourist cabin can be temporarily occupied as a manager's residence until the development is completed.

Stage 1, inclusive of Cabin 7 and a detached dwelling, does not meet the threshold identified above and should not be supported by Council.

22. Conclusion

The proposed development is highly incongruous with the existing and future character of the surrounding locality and approval of this development by Shoalhaven City Council is likely to set a precedent for the development of incompatible tourist resorts under the guise of rural or farm stay cabins.

As discussed, based on the provisions of SLEP 2014 the proposed development should be re-considered as *Farm Stay Accommodation* and the yield limited to 7 bedrooms in accordance with the provisions of the SLEP. Permitting greater accommodation on a working farm will reduce farming and agricultural capacity and create unacceptable conflicts.

A review of the proposal, vetted primarily against objectives and controls of the Shoalhaven DCP 2014, indicates that the proposed resort style development is highly inconsistent with a number of key considerations designed to maintain or enhance rural residential amenity. The proposal will result in impacts to residential amenity, visual privacy, acoustic privacy, traffic and access, in addition to potential detrimental impact to local road infrastructure that is unlikely to accommodate construction and operational vehicle movements that would be required to support a development of this capacity.

The proposal is entirely non-compliant with density controls provided in the DCP and the development will impact the environment, existing and future amenity, property prices and the important character of Broughton Vale that has drawn many residents to the area.

Whilst the umbrella use, *Tourist Accommodation*, is permissible in the zone, it is acknowledged that Council is afforded the opportunity to refuse the proposal should the bulk, scale and density be deemed unsuitable for the locality. A site inspection and visual assessment of surrounding development, including the adjacent site afforded consent for additional rural residential development, should immediately reinforce the issues raised in this submission. It is evident that the proposal is a gross overdevelopment of the site and will generate significant long-term amenity impacts on surrounding development, neighbouring residents, council infrastructure and the environment.

The proposed development should therefore be refused on grounds of incompatibility with the existing, desired and future character of the Broughton Vale locality and greater Berry district.

Yours faithfully



Ben Miller | Town Planner
Barker Ryan Stewart Pty Ltd

Appendix A - Engineering Review