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AMENDED PLANNING PROPOSAL FOR USE OF LAND TO PROVIDE SENIORS HOUSING, MEDICAL AND OTHER FACILITIES

AT

**LOT 101 DP 1140936
EWINGSDALE ROAD, EWINGSDALE**

MADE TO

BYRON SHIRE COUNCIL

ON BEHALF OF

BELBECK INVESTMENTS PTY LTD

OCTOBER 2013
REF: 099314.19R

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1.0 EXECUTIVE SUMMARY

This Planning Proposal is made to Byron Shire Council in respect of land located at Ewingsdale Road, Ewingsdale and legally described as Lot 101 of Deposited Plan 1140936 (*the Subject Site*). It seeks additional permissible uses to facilitate the use of the Subject Site to provide **seniors housing, business premises, restaurants or cafes, shops and medical facilities** adjacent to the site of the new Byron Bay Hospital (*the Proposal*).

This Proposal has been prepared by Belbeck Investments Pty Ltd (*Belbeck*) at the request of Byron Shire Council (*the Council*) after submissions were made by Jewelbond Pty Ltd (the registered proprietor of the Subject Site) in response to the exhibition of Draft Byron Local Environmental Plan 2012 (*the Draft LEP*). It follows a separate Planning Proposal made in November 2010 (*the 2010 Planning Proposal*) made by Jewelbond Pty Ltd. Belbeck, is now pursuing this matter on behalf of the registered proprietor, Jewelbond Pty Ltd.

This Proposal has been prepared in accordance with s. 55 of the *Environmental Planning and Assessment Act 1979 (the Act)* and the DOP's 'A Guide to Preparing Planning Proposals'. It seeks concurrence and adoption by Council to apply for a gateway determination from the NSW Department of Planning (*the DOP*) to amend the permissible uses on land the subject of the Proposal.

Lot 101 sits on either side of the site of the Byron Shire Hospital which is entering its final design and costing stage.¹

Pursuant to the Draft LEP, the Subject Site is proposed to be zoned RU2 Rural Landscape, R5 Large Lot Residential and SP2 Infrastructure. This Proposal seeks that Council amend the Draft LEP to provide additional permissible land uses on the Subject Site to permit the provision of **seniors housing** (including aged care facilities), **business premises, restaurants or cafes, shops and medical facilities** that could complement the soon-to-be-constructed Byron Shire Hospital.

Belbeck is mindful that the Draft LEP may face delays. In such circumstances, Belbeck therefore would seek commensurate changes to be advanced as a Planning Proposal to the Byron Local Environmental Plan 1988.

Belbeck is concerned that the fragmented nature of the rezoning proposed by the Draft LEP leads to a complex planning scheme that does not take into account the development potential of the Subject Site being a large, cleared block of land strategically located on either side of the Byron Shire Hospital. The proposed zonings and restricted use of the Subject Site will not promote the orderly and economic use of land and thus fails to meet the objects of the Act.²

The proposed amendments for the Subject Site as outlined in this Proposal will assist in meeting the already high and unmet demands for seniors housing to accommodate the increasingly aging population in the Byron Local Government Area. It will also

¹ Julian Skinner MP Minister for Health, Minister for Medical Research, *Next Stage of Planning for Byron Shire Central Hospital*, Media Release, 11 December 2012.

² *Environmental Planning and Assessment Act, 1979* (NSW), s. 5.

complement the development of the Byron Shire Hospital between the two parcels of the Subject Site through economic and social synergies not ordinarily available for such developments.

This Proposal represents an opportunity for Council to provide an environment in which the private sector can take significant steps in stemming the existing and anticipated shortfall in the provision of these services and housing for the ageing population. If such an opportunity is missed it will fall to the Local Governments of the region and the State Government to provide these services which, without additional funding, will lead to a reduction in the scope and depth of services elsewhere.

2.0 INTRODUCTION

This Planning Proposal is made to Byron Shire Council in respect of land located at Ewingsdale Road, Ewingsdale and legally described as Lot 101 of Deposited Plan 1140936 (*the Subject Site*). It seeks additional uses to be made permissible to facilitate the use of the Subject Site to provide **seniors housing, business premises, restaurants or cafes, shops and medical facilities** adjacent to the site of the new Byron Bay Hospital (*the Proposal*).

This Proposal has been prepared by Belbeck at the request the Council after submissions were made in response to the the Draft LEP. It follows a separate Planning Proposal made in November 2010.

This Proposal has been prepared in accordance with s. 55 of the Act and the DOP's 'A Guide to Preparing Planning Proposals'. It seeks concurrence and adoption by Council to apply for a gateway determination from the DOP to amend the permissible uses on the land the subject of this Proposal.

The Subject Site has been in the same family ownership since 1989 and used for grazing cattle during that time.

The Subject Site comprises two lots between William Flick Lane to the east (The Pacific Highway) and McGettigans Lane to the west. The site is located approximately 5.5kms west of Byron Bay along Ewingsdale Road.



Figure 1 – Aerial Site Overview of Lot 101 shown highlighted (Source: Nearmap.com.au image dated 29 February 2012; sourced 5 November 2012)

Lot 100 of Deposited Plan 1140936 is located between the two portions of Lot 101, identified above (*Lot 100*). Lot 100 is owned by the Health Administration Corporation and is the site for the new Byron Shire Hospital.



Figure 2 – Aerial Site Overview (Source: Nearmap.com.au image dated 3 July 2012; sourced 30 October 2012)

An easement across the centre of Lot 100 benefits Lots 101 for access between the two portions of the Subject Site.

In 2010 a planning proposal was made by the North Coast Area Health Service to Council to rezone Lot 100 as SP2 Infrastructure for hospital purposes. The rezoning to SP2 Infrastructure occurred in 2011.

The 2010 Planning Proposal (for the Subject Site) was considered by Council at its ordinary meeting of 10 February 2011 (see **Annexure 1**). Council was largely supportive of the aims of the 2010 Planning Proposal; viz:

...the proposal does provide social and economic benefits for the community in a region with a rapidly ageing population. Benefits to the community include:

- *Increased supply and range of housing types for seniors.*
- *Increased supply of aged care facilities.*
- *Provision of ancillary medical facilities.*
- *Provision of retail facilities.*
- *Sustainable employment opportunities.*

On 10 February 2011, Council determined to refer the 2010 Planning Proposal to the Local Growth Management Strategy given the impending review of the Far North Coast Regional Strategy (FNCRS). Consequently, if after the FNCRS review the Local Growth Management Strategy found the Subject Site to be suitable for the use proposed, it is expected Council would have considered it appropriate to forward the 2010 Planning Proposal to the Department of Planning for further consideration.

Since the above Council meeting, the review of FNCRS has been delayed due to staffing constraints as a result of the State Government's review of the Act. The Proposal is widely consistent with the objectives of the FNCRS. Moreover, planning for the hospital

on Lot 100 has reached the final costing and design with funding assigned in the 2012 NSW State Budget for the preparation of the Services Procurement Plan and Master Planning.

Following our submission on the Draft LEP Council Officers attended the Subject Site on 30 January 2012 to meet with the Applicant and discuss that submission in detail. Through that meeting the Council expressed support for the aims of the submission and requested that a Planning Proposal be submitted to Council for consideration.

On 13 June 2013 Council resolved to support the inclusion in Schedule 1 of the Draft Byron Local Environmental Plan 2012 of the additional permissible uses to give effect to this Planning Proposal. The Planning Proposal was forwarded to the Department of Planning and Infrastructure with Council's additional recommendation that it be required to be subject to a Master Plan. The Department of Planning and Infrastructure suggested the removal of this requirement as it was inconsistent with Section 117 Direction, Section 6.3 Site Specific Provisions.

In light of this suggestion, an Additional Permitted Uses Map has been prepared to restrict the proposed retail development to the portion of the land identified on the Map. On 19 September 2013, Council resolved to support the revised Proposal (including the Additional Permitted Uses Map).

The Proposal as outlined in this report will assist in meeting the already high and unmet demands for seniors housing to accommodate the increasingly aging population in the Byron Local Government Area and complement the development of the Byron Shire Hospital between the two parcels of the Subject Site through economic and social synergies not ordinarily available for such developments.

3.0 OBJECTIVES OR INTENDED OUTCOMES

The objective of this Proposal is to permit additional uses on part of, or the entirety of, Lot 101 so that:

- On the western portion of Lot 101:
 - (a) seniors housing; and
 - (b) retail facilities including a supermarket and specialty stores and medical facilities in area “A” on the Additional Permitted Uses Map – see **Annexure 8**;
- On the eastern portion of Lot 101 – seniors housing.

For further information, please have regard to the indicative concept plans attached at **Annexure 3**.

The indicative concept plans demonstrate the manner in which the objectives of the Proposal would be implemented having regard to the physical and topographical characteristics of the two parcels of land that comprise Lot 101, which are linked by the right-of-carriageway through Lot 100, on which the proposed hospital is to be located.

The inclusion of the medical centre and retail uses will also assist in providing the appropriate services to address the needs of the future residents in the proposed seniors housing and aged care facility as well as meet the daily needs of visitors and workers in the adjoining hospital, and local Byron Shire area.

Belbeck is concerned that the fragmented nature of the rezoning proposed by the Draft LEP 2012 leads to a complex planning scheme that does not take into account the development potential of the Subject Site, being a large, cleared block of land strategically located on either side of the Byron Shire Hospital. The proposed changes, above, will ensure that any development promotes the orderly and economic use of land and thereby meets the objects of the Act.

4.0 EXPLANATION OF PROVISIONS

4.1 COUNCIL'S DRAFT LEP PROVISIONS

The Subject Site is identified under *Byron Local Environmental Plan 1998* as being zoned 1D Investigation and 1C2 Small Holdings as illustrated in Figure 3 below. Relevant to this submission, the first objective of the 1D zone is:

- (a) to identify land which is to be investigated in respect of its suitability for rezoning for more intensive development.

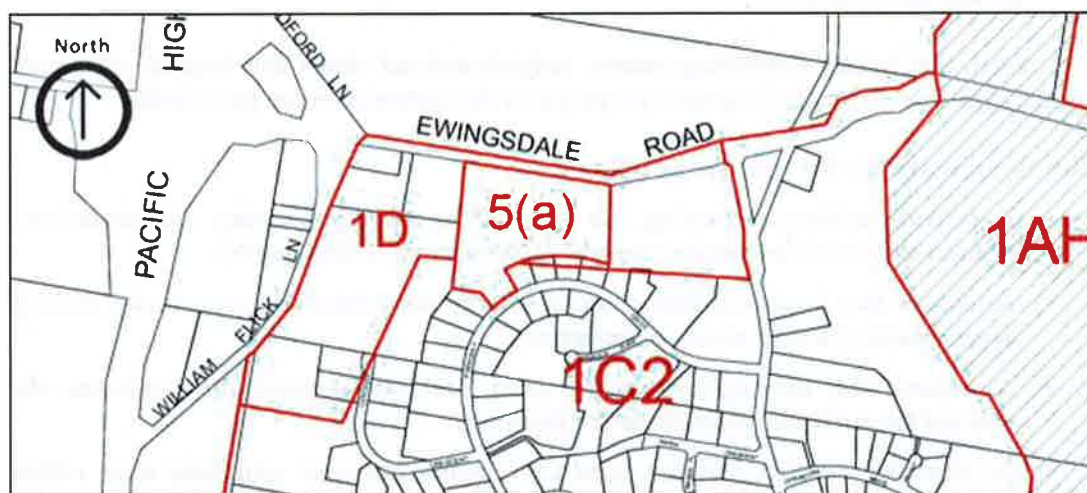


Figure 3 – Existing Zoning (Source: Byron Local Environmental Plan 1988 – map sheet 0711 dated September 11 2012)

The Subject Site is proposed to be zoned partly RU2 Rural Landscape, R5 Large Lot Residential and SP2 Infrastructure in the Draft LEP as illustrated in Figure 4 below.

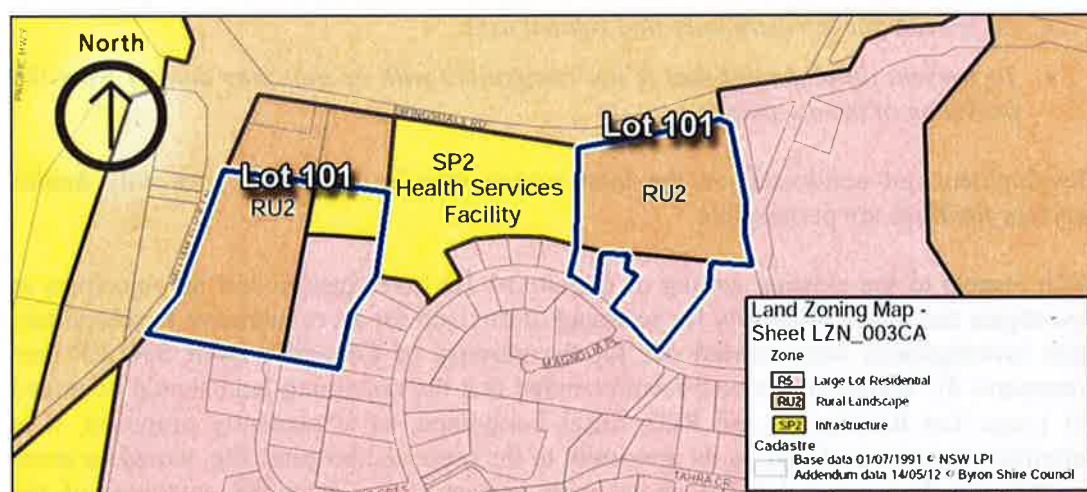


Figure 4 – Proposed Zoning (Source: Draft Byron Local Environmental Plan 2012 – map sheet LZN_003CA)

The objectives of the RU2 zone, which covers the majority of the Subject Site, are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture*
- *To enable the provision of tourist accommodation, facilities and other small scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.*
- *To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.*

It is noted, that **health consulting rooms, neighbourhood shops and hostels**, which are similar type uses to the development proposed in this submission are permissible.

The objectives of the R5 zone are as follows:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones*

In the R5 zone, it is noted that **health services facilities** are permissible.

The objectives of the SP2 zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure*

Development not nominated on the land zoning map is prohibited, thus only **health services facilities** are permissible.

With respect to the existing zoning of the site as 1D Investigation and its objectives to investigate the future suitability for rezoning of the land for more intensive development, such investigations were carried out for the purpose of Council's Draft SWLEP (see **Annexure 4**). Whilst that review recommended that the remaining land should be zoned R5 Large Lot Residential and RU2 Rural Landscape, as is presently proposed, it is submitted that the land, due to its proximity to the proposed hospital site, would be more suitable for those uses detailed above with respect to the intended outcomes of the Proposal.

4.2 PARTICULARS OF THE PLANNING PROPOSAL

In the context of the above it is considered that an appropriate means to implement the Proposal would be to add to Schedule 1 of the Draft LEP additional permitted uses for the land. In order to meet the objectives of the Proposal Council resolved that it should be worded as follows.

- 1 Use of certain land at Ewingsdale Road, Ewingsdale**
 - 1) This clause applies to land at Ewingsdale Road, Ewingsdale being Lot 101 DP 1140936.**
 - 2) Development for the purposes of Seniors Housing, Medical Centre, Business Premises, Restaurants or Cafes, and Shops is permitted with development consent.**
 - 3) All commercial uses listed in subclause (2) are restricted to the land identified as "Area A" on the Additional Permitted Uses Map and limited to a combined maximum total floor area of 3000m².**

Such a provision could be applied in conjunction with the aforementioned RU2, R5 and SP2 Zones.

Given the density of development in areas of Byron that would permit the proposed uses, it is not conceivable that a development of the size and nature envisaged in this submission could be advanced elsewhere. Moreover, there are few specific zones (being R3 Medium Density and B4 Mixed Use) where seniors housing can be built with immediate access to the other proposed retail and community facilities as is incorporated in the Proposal.

The existing RU2 Zone in the Draft LEP presently permits health consulting rooms, hostels, restaurants and neighbourhood shops. Such uses generally accord with the *type* of development sought for the Subject Site, but of a less intensive nature. This Proposal therefore represents only a broadening of the intensity of the development presently permissible in that zone which pertains to the majority of the Subject Site.

This Proposal represents an opportunity for Council to make substantial inroads to providing affordable seniors housing at an appropriate and accessible location.

5.0 JUSTIFICATION

5.1 NEED FOR THE PLANNING PROPOSAL

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

The Proposal seeks to exploit Council's rezoning of Lot 100 and part of Lot 101 as SP2 Infrastructure for the purposes of the proposed Byron Hospital by seeking to provide complementary retail and medical services and seniors housing and aged care premises.

The Proposal would meet the identified shortage in the availability of land suitable for the expected future increase in the age of the population of Byron Shire Council as well as provide improved medical delivery through the proposed provision of complementary services.

The suitability and viability of the use of the land for these purposes has been explored in a number of reports which accompany this Proposal, as follows.

Study of Seniors Housing and a Medical Centre prepared by Stan Manning and Associates, dated March 2013 (Seniors Housing Study)

The Seniors Housing Study considers the implications of a development in the context of the proposed amendment to the Draft LEP (see **Annexure 2(A)**). It includes graphs which visually represent the increase in persons aged over 70 within the Byron LGA and the wider catchment area of the development. They are extracted below in Tables 1 and 2.

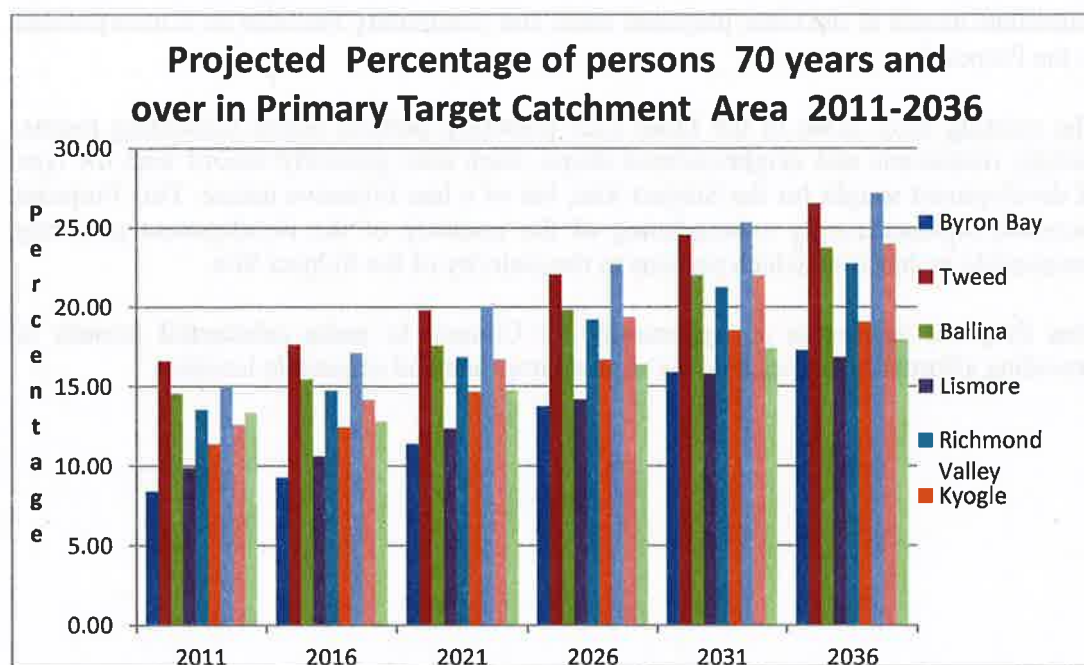


Table 1 – Projected population increase aged over 70 years in catchment area (Source: Table 5.1 **Annexure 2(A)**)

Table 1 demonstrates that between 2011 and 2036 the number of persons in the

catchment area will double from 51,690 persons (8.4%) to 114,260 (17.3%) persons aged over 70 years which will put pressure on social services throughout these areas.

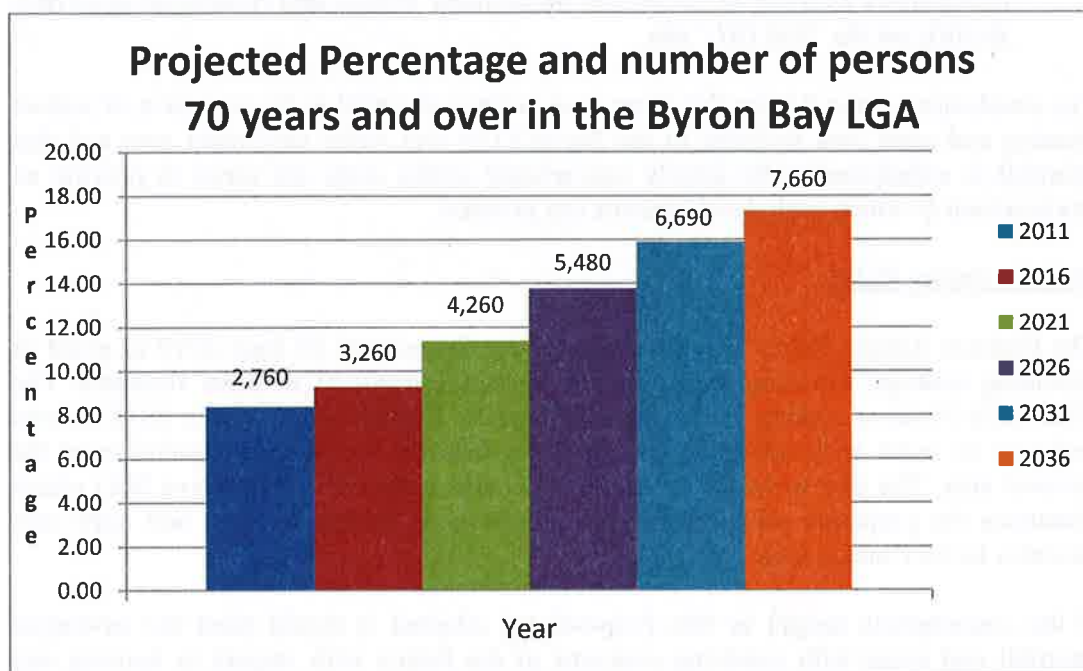


Table 2 – Projected population increase aged over 70 years Byron LGA (Source: Table 5.3 Annexure 2(A))

Table 2 shows the projected number of person in the Byron LGA anticipated to be aged over 70 in the coming years. That number is expected to almost triple from 2,760 in 2011 to 7,660 in 2036, making up to 17% of the population.

In respect of the seniors housing the Study makes the following key conclusions

- *There is an identified and urgent need for the Seniors Housing being proposed by Jewelbond with a present shortfall of 146 places for the Byron LGA.*
- *The catchment area has been defined. The demographics of the primary target catchment area show a higher than NSW average proportion of persons aged 70 years and over. They also show that over the next 24 years to 2036 in all areas, there will be substantial growth in the actual number of persons aged 70 years and over.*
- *The present and projected demographics of the region and the identified target market area show higher than the NSW average levels of older persons and therefore a sizeable market for Seniors Housing.*
- *It is also quite clear that the size of the market in the future will increase substantially with demand both for Seniors Housing (Independent Living Units – ILUs) and residential aged care. This in turn will bring on increased demand for medical and associated health care services. In addition, there will also be increased commercial opportunities because the Australian Government will have to increase the supply of residential aged care places and the funding to operators to both new and existing operators to provide such services.*

- *There is no doubt that there would be substantial benefits and synergies to be achieved by the co-location of the new Byron Bay Hospital, a Medical Centre, and Seniors Housing Development (Retirement Village and residential aged care facility) on the "Lot 101" site.*

The conclusions make it clear that there is an existing shortfall in the provision of seniors housing and aged care facilities in the Byron LGA and wider catchment area and that shortfall is anticipated to be greatly exacerbated unless steps are taken to provide an environment in which such developments can proceed.

Positive Ageing Policy

The Positive Ageing Policy was first adopted by Council on 10 June 2010 to assist in providing strategic direction for Council to meet the needs of its older residents. The 2012-2016 Positive Ageing Policy was adopted by Council on 1 March 2012. It was prepared to assist with future planning for services for the ageing population of the Council area. The data provided in the report is also repeated in **Annexure 2(A)** which illustrates the projected short-falls in the provision of seniors housing and aged care facilities in the Council area.

If the amendments sought in this Proposal are adopted it would meet the envisaged shortfall and assist with resolving concerns of the Policy with respect to housing and accommodation for seniors in part 5.3; viz:

- *Appropriate housing developments close to community facilities.*
- *Accommodation available in three stages - retirement villas, assisted living and full time care - This to be all in one development - At present this is not available and the aged have to be moved from own area to another causing great distress.*
- *Shortage of appropriate accommodation for self-reliant seniors. Maintaining independent living (very few would choose to live with relatives, for everyone's sake).*
- *Insufficient "retirement villages".*
- *Low income = Poverty (caravan park ghettos).*
- *Many seniors stay in their homes with some assistance until they are forced to enter final-stage homes, eg. Feros, Bayside at Byron or the Orthodox home - this is depressing and demoralising. Number 19 Cooper Street is good, but not always available and many cannot afford it, also it has no second-stage facility*

The Seniors Housing Study at **Annexure 2(A)** makes reference to the above identified points in the Council's positive ageing strategy and considers that the Proposal goes some way to meeting the need for community facilities and, particularly, a variety of accommodation types that support the three stages of aged care.

Byron Shire Council Affordable Housing Options Paper

This paper was prepared on behalf of the Council to assist in the formulation of, among other things, the Draft SWLEP and Affordable Housing Development Control Plan (*the*

Options Paper).

Relevant to the Proposal, point 2.2.1 of the Options Paper notes the significant net increase in the need for older, smaller households into the future. The research indicates that by 2031 there will likely be an increased demand for various forms of age-appropriate or age-restricted housing, including an additional:

- 203 high care places (nursing home places) by 2031;
- 176 low care places (hostel places) by 2031;
- 1,800 smaller more manageable dwellings for older people well-located and preferably walkable to transport, shops and services. These include small clusters of villas, townhouses, lifted apartments, granny flats and small attached dual occupancies in conventional residential areas, a higher proportion of which need to be 'adaptable' per AS4299;
- 460 Self Care Units/Independent Living Units in age-restricted developments, for example, retirement villages developed under SEPP Senior Living.

The Options Paper further concludes:

Around 80% of net increase in demand will be from 1 and 2 person households, the vast majority of which will be older households needing a mix of dwelling types including smaller, more manageable dwellings. It is strongly preferred that these be well located in terms of shops, transport and services, and be supplied within or adjoining the major urban centres;

There appears to be a shortfall in high care and slight oversupply in low care places in Byron currently. There also appears to be an undersupply in selfcare units for seniors housing.

The above demonstrates an increasing need for the provision of facilities and housing specifically to cater for older persons in the Byron Bay Local Government Area.

Retail Floorspace Analysis prepared by Duane Location IQ, dated March 2013

The Analysis (see **Annexure 5**) notes that within the Byron Bay Town Centre there is limited scope to provide additional large plate retail premises due to restrictions such as lot sizes, cost of land and traffic congestion. The provision of a supermarket and ancillary speciality stores in close proximity to the Princes Highway and Ewingsdale Road could service a large area including the regional population growth areas to the west of the Town Centre.

The Analysis demonstrates that at the time it was prepared there was a shortfall of approximately some 11,000sqm based on the population for the identified trade area for an additional retail premises at the subject site. This shortfall, given population increases, is expected to increase to almost 50,000sqm by the year 2026 should no additional retail floorspace be provided.

Evidently, it would appear that there is a substantial shortfall in retail land which would lead to higher rental prices and insufficient competition, both leading to higher than

necessary retail prices. The provision of additional retail lands at the Subject Site would assist in reducing congestion in the Town Centre and act to remedy the existing shortfall in retail lands, thereby assisting to reduce retail prices through additional competition. It would also complement the proposed seniors living and the proposed hospital.

Although not assessed in the Retail Floor Space Analysis, it should also be noted that the Hospital would also benefit from the availability of retail services being provided in close proximity to it. Without the provision of retail services as detailed in this Proposal the hospital, its staff and patients would be largely isolated and restricted to accessing only those goods and services offered directly by the hospital.

Far North Coast Regional Strategy

In addition to the above, and as noted below, the Proposal can be supported on the basis of the strategic planning framework for the Far North Coast Region. The FNCRS was earmarked for review in 2010, but no releases or notifications have been made to date.

Similarly to the below two strategic planning documents, the subject site is not identified as a possible location for more intensive development. The FNCRS and below documents, as the point is made, were prepared well before it was ever considered that Lot 100 would be used as a location for a new Byron Bay Hospital.

It is considered that with the new Hospital now in its master plan stages, that a strategic review of the potential directly adjoining land uses should be considered by Council in the absence of the review of the FNCRS.

Local Environmental Study by Parsons Brinckerhoff

Council commissioned Parsons Brinckerhoff to prepare the Byron Shire Council Local Environmental Study (LES) which reiterates (in Section 2.2.5 of the LES) the concerns with respect to a growing ageing population and the need to provide housing and service industries to cater for this market that were outlined in the FNCRS.

With respect to the Subject Site, the LES reads as follows:

Lot 17 (21.6 ha)[being Lot 100 and Lot 101] is a large irregular shaped lot that is mainly zoned 1(d). It has a long frontage to Ewingsdale Road and backs onto the Ewingsdale rural residential area. It has a single dwelling on it in its north east corner [an item of local heritage significance] and is currently used for cattle grazing. It has no significant native vegetation but has a dip site on it and is affected by dip site buffers from 2 neighbouring dip sites. It is prime agricultural land according to DPI mapping and is also regionally significant farmland. It has recently been selected as a preferred site for a new Byron Shire hospital and about one third of the lot fronting Ewingsdale Road will likely be put to this public use.

It should be zoned to reflect its unusual shape and the proposed hospital use. The hospital site should be SP2, the individual intrusions into the rural residential area off Parkway Drive should be R5 and the southern extremity off Avocado Crescent should also be R5. The remaining two substantial pieces of the lot along Ewingsdale Road and William Flick Lane should be zoned RU2 [being Lot 101] as they are not specifically

prime agricultural land and it is not currently part of Councils rural settlement strategy to expand rural residential development in this area.

Refer to Section 7.6.3 Ewingsdale (a) Hospital Site of the LES for more details.

An extract of the LES from Section 7.6.3 is attached at **Annexure 4**.

The above extract recommended that the remaining land, being the Subject Site, should be zoned R5 Large Lot Residential and RU2 Rural Landscape only on the basis that the Subject Site sits outside of the Rural Settlement Strategy 1998 (*RS Strategy* - discussed further below). However, the RS Strategy did not identify the Subject Site for any particular use and it was instead identified as appropriate for further investigation (consistent with the 1D Investigation Zoning).

Moreover, it is noted that the Subject Site is proposed to be zoned RU2, which is inconsistent with the physical attributes of the site, noted above. The LES provides that the Subject Site is not specifically prime agricultural land. This is at odds with the objectives for the RU2 Zone which aims specifically to “encourage primary production industry” and “extensive agriculture”.

Rural Settlement Strategy 1998

The RS Strategy was adopted in 1998 and last updated in 2001. It has not been updated pursuant to more recent investigations carried out by the State Government or the Local Council. The Subject Site, consistent with its present zoning, is listed as being within an investigation area, however, no such investigations for which we are aware have been carried out for the use of the Subject Site other than the above, which simply identified it again for further investigation.

Given the length of time since the update of the RS Strategy it is considered that the RS Strategy should not be relied upon as an indication of potential land use for the Subject Site, but instead, Council should rely on the identification of the Subject Site as being appropriate for further investigation. Those investigations should focus on the use of the Subject Site as proposed in this submission as sought by the land owner.

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

Without the rezoning of the land, or additional permitted uses, to provide for retail facilities, the provision of aged care facilities and seniors housing may not be viable. The close and easy availability of daily goods and services and recreational facilities are necessary for seniors housing as they form important considerations under State and Council controls. The Proposal also offers significant synergies between the hospital and proposed medical centre that would improve medical service delivery, training, employment and competition. The Proposal is the best means of achieving the proposed changes.

3. Is there a net community benefit?

There would be net benefits to the community as a result of the Proposal, including:

- Assisting Council with meeting the expected future demand for aged care and seniors housing as outlined in a number of DOP and Council documents as outlined in the introduction to this Proposal;
- Providing of speciality and ancillary medical facilities in close proximity to the proposed hospital site;
- Creation of new employment opportunities above and beyond what could be provided through a similar development in another location given the economic synergies of aged care facilities, seniors housing, medical facilities and a hospital in close proximity to one another;
- Co-location of public and private health services will offer significant opportunities to develop a strong and competitive health offering which universities, tertiary and registered organisations will want to participate in providing education and training services;
- Assisting Council in providing additional retail floor space in a location which would be easily accessible for the larger surrounding area via the Pacific Highway;
- Providing supermarket and speciality retail store to assist the viability of any seniors housing development; and
- Assisting Council in meeting the housing target of 60,400 new dwellings for the Region and 2,600 new dwellings by 2031 for Byron as outlined in NSW Governments Far North Coast Regional Strategy.

5.2 RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

In December of 2006, the DOP released the Far North Coast Regional Strategy. The strategy outlined a number of challenges that would need to be met over the next two decades; including:

Population and Housing Challenges

- *Manage the expected population growth in a way that retains village character, enhances a sense of community, limits the spread of urban development, and minimises damage to environmental values and rural production;*
- *Support the development of non-coastal centres;*
- *Provide a framework for the planning of new infrastructure for the planning of new infrastructure for the growing and ageing population; and*
- *Provide choice in housing form and affordability in appropriate locations that responds to changing demographics and the associated reduction in household*

occupation rates

With respect to the above population and housing challenges the Proposal would assist by:

- Providing land to cater for the expected future population growth in a manner consistent with the requisite village character in that the daily needs of residents including for goods and services and recreational needs could be met from within the development;
- Supporting the development of non-coastal areas by proposing to develop land on the periphery of the identified coastal area;
- Providing a framework to provide for new infrastructure for the growing and aging population; and
- Providing a choice of housing options from aged care and semi-attached dwellings for seniors housing.

Economic Challenges

- *Ensure sufficient employment lands are available in appropriate location to accommodate growth in existing and emerging industries and businesses; and*
- *Ensure future employment lands are located to take advantage of the transport network offered by upgrades to the Pacific Highway and other major roads in the Region.*

With respect to the above economic challenges the Proposal would assist by providing additional employment lands and employment opportunities that would take advantage of the natural synergies available for development in close proximity to a hospital and the Pacific Highway. Those synergies would provide employment opportunities above and beyond what could be expected for a similar proposal in a different location.

With respect to economic outcomes the Proposal would also assist in meeting the aims and objectives under the Regional Industry and Economic Plan for the Northern Rivers, 2005 published by the DOP with respect to point 4.2.10 'Strategies/Actions for the Residential Development and Construction Sector' and 4.2.11 'Strategies/Actions for the Health, Aged Care and Community Services Sector' through the creation of employment opportunities in the construction and aged care sectors.

5. Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Byron Shire Council is currently developing a new Shire Wide Standard Instrument Local Environmental Plan. It is likely that such a plan would incorporate strategies to meet the overarching strategies expressed in the above documents relevant for the region such as future housing needs, the needs of an ageing population and the creation of employment lands and opportunities.

The subject site has been proposed in the draft documents as being zoned RU2 Rural Landscape, RU5 Large Lot Residential and SP2 Infrastructure.

Council commissioned Parsons Brinckerhoff to prepare the Byron Shire Council Local Environmental Study which reiterates those concerns listed above with respect to a growing ageing population and the need to provide housing and service industries to cater for this market that were outlined in the Far North Coast Regional Strategy (see Section 2.2.5 of that report), but identified the site as being appropriate for further investigation.

As noted above, the Proposal is also consistent with a number of Council policies and plans including the Positive Ageing Policy which seeks to meet the needs of its aging population and the Affordable Housing Options Paper.

6. Is the Planning Proposal consistent with applicable state environmental planning policies?

Subject to the amendments proposed to Draft LEP being adopted the Proposal is consistent with all relevant State Environmental Planning Policies.

7. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 Directions)?

There are five relevant Ministerial Directions that apply to this Proposal for the site. These are in relation to Business and Industrial Zones, Heritage Conservation, Residential Zones, Implementation of Regional Strategies and Commercial and Retail Development along the Pacific Highway North Coast. All of these are addressed under the related sub-headings below.

Direction 1.1 Business and Industrial Zones

The proposed changes would permit with consent business premises and the like and therefore the Ministerial Direction for Business and Industrial zones is relevant to this Proposal.

The objectives of the Direction for Business and Industrial Zones are:

- (a) encourage employment growth in suitable locations,*
- (b) protect employment land in business and industrial zones, and*
- (c) support the viability of identified strategic centres.*

It is submitted, that the Subject Site, which is proposed to accommodate a mix of retail, business and residential uses would provide a high level of employment opportunities through retail and commercial development and through the synergy available due to the site's proximity to the proposed hospital site and passing traffic along the Pacific Highway.

Where this Direction applies:

A Planning Proposal must:

- (a) give effect to the objectives of this direction,*
- (b) retain the areas and locations of existing business and industrial zones,*
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones,*
- (d) not reduce the total potential floor space area for industrial uses in industrial zones, and*
- (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.*

The Proposal would meet the objectives of this Direction because it would provide employment opportunities within the retail and/or commercial floor space proposed for the Subject Site.

In terms of matters (b), (c) and (d) above, the Subject Site is not located within a business or an industrial zone and therefore these matters are not a relevant consideration. In terms of matter (e), the Subject Site is not identified as being located within employment lands in the draft East Subregional Strategy. It is however located adjacent to the site of the Byron Hospital and is therefore in an appropriate location to consider the provision of ancillary employment opportunities.

Direction 2.3 Heritage Conservation

A building located on the eastern component of Lot 101 is listed as an item of local heritage significance under the LEP. Notwithstanding this, the building and any significant structures surrounding it are to be incorporated into the Proposal. This is illustrated in the proposed concept plan at **Annexure 3**. The heritage building would be incorporated into the commercial uses of the property, likely as a café, restaurant, recreational hall or the like.

The Proposal therefore complies with Direction 2.3 Heritage Conservation.

Direction 3.1 Residential Zones

The proposed zone changes would permit with consent residential dwellings therefore the Ministerial Direction for Residential Zones is relevant to this Proposal.

The objectives of the Direction for Residential Zones are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,*
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- (c) to minimise the impact of residential development on the environment and resource lands.*

The proposed concept plan attached at **Annexure 3** and accompanying reports demonstrate the intention of the Proposal to provide a variety of housing types to meet

the future demand for aged care and seniors housing needs. In addition, the Proposal incorporates the provision of future infrastructure and services that are expected to be required for such a development and those ancillary to surrounding development such as the proposed hospital.

Where this Direction applies:

A Planning Proposal must include provisions that encourage the provision of housing that will:

- (a) broaden the choice of building types and locations available in the housing market, and*
- (b) make more efficient use of existing infrastructure and services, and*
- (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- (d) be of good design.*

The Proposal meets the above provisions in that:

- It would provide a broad range of housing options;
- Make efficient use of existing infrastructure required for the hospital such as electricity, water, gas and sewerage;
- Reduce the consumption of land through medium density development within close proximity to the town of Byron Bay; and
- Permit the development and design of good development.

A Planning Proposal must, in relation to land to which this direction applies:

- (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and*
- (b) not contain provisions which will reduce the permissible residential density of land.*

The Proposal is capable of incorporating the above requirement under (a). The Proposal would increase the residential density of the land.

Direction 5.1 Implementation of Regional Strategies

Planning proposals must be consistent with a regional strategy released by the Minister.

The Proposal complies with the overall intent and strategies outlines in the FNCRS, as outlined under Section 4.2 above.

The Proposal would assist in meeting the challenges for population and housing to develop centres outside of the coastal area. The site is located on the periphery of the

identified coastal area but falls outside of any proposed future urban land release or employment land areas. This is not considered to be a major impediment as the development would benefit from being in close proximity to the proposed hospital which was not a consideration when the FNCRS was developed.

The FNCRS was due to be reviewed in 2010 but that review is now on hold indefinitely. It is therefore considered appropriate for the Council to consider whether retail, medical, seniors housing and aged care facilities would be appropriately located adjacent the Byron Hospital.

Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast

This Direction applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway. Given that there would be, at least, some retail development to the western component of the Proposal which sits adjacent to William Flick Lane (which provides access to the Pacific Highway via Ewingsdale Road), it is considered that this Direction may be relevant to the Proposal.

- (1) *A planning proposal that applies to land located on "out-of-town" segments of the Pacific Highway must provide that:*
 - (a) *new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction.*
 - (b) *development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway.*
 - (c) *For the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (eg: "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80km/hour or greater.*

With respect to (b) above it is noted that the Proposal does not contain a frontage to the Pacific Highway but to William Flick Lane. For the purposes of (a) above, the objectives of Directive 5.4 are as follows.

- (2) *The objectives for managing commercial and retail development along the Pacific Highway are:*
 - (a) *to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;*
 - (b) *to prevent inappropriate development fronting the highway*
 - (c) *to protect public expenditure invested in the Pacific Highway,*
 - (d) *to protect and improve highway safety and highway efficiency,*

- (e) *to provide for the food, vehicle service and rest needs of travellers on the highway, and*
- (f) *to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.*

The Proposal meets the above objectives as it would:

- Continue to maintain the function of the Pacific Highway as a inter and intra-regional road by not prejudicing traffic flows and thereby protect invested public expenditure and highway safety;
- Not front directly to the Highway;
- Provide an additional option for food, vehicle service and the rest needs of travellers on the highway; and
- Reinforce the role of the proposed retail and commercial development to serve the population of the proposed dwellings and those to the south of the Proposal.

In addition, the Proposal is accompanied by a traffic impact assessment (see **Annexure 6**) which has assessed the Proposal's potential impact on the surrounding road network with respect to traffic volumes. The report found that the surrounding road network, with the exception of the Ewingsdale Road/William Flick Lane/Woodford Lane intersection (in its present configuration), would be capable of supporting the expected future growth in traffic volumes and that generated by the Proposal.

The traffic impact assessment finds that options to upgrade the Ewingsdale Road/William Flick Lane/Woodford Lane intersection exist, for example the construction of a two-stage right turning lane. Such options would need to be further considered at the detail planning phase but would assist in addressing any potential long-term traffic impacts associated with the Proposal.

5.3 ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Preliminary investigations indicate that there are no critical habit or threatened species, populations or ecological communities, or their habitats located on the Subject Site.

9. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The Subject Site was previously used for cattle grazing and is primarily cleared. There is limited potential for further adverse impact to the natural environment. Consideration will have to be given to an existing water stream through the eastern component of the Subject Site. The stream has previously been piped in a number of locations to permit the building of roads and this may need to occur in at least one location as part of the Proposal.

Any future proposal would need to be cognisant of the enjoyment of the environment by the public and deal with it through appropriate planning and design of the future development.

It is considered that the appropriate protection and integration of environment with the anticipated future uses of aged care facilities and seniors housing would further enhance the Proposal.

In protecting the amenity of those proposed dwellings which would be in close proximity to a number of uses including the proposed hospital, retail land uses and the Pacific Highway, any potential impacts can be overcome through appropriate design and acoustic mitigation, assessed at the development application stage.

10. How has the Planning Proposal adequately addressed any social and economic effects?

The Proposal would have strong positive social and economic effects.

In terms of the economic effect, the Proposal represents an opportunity for Lot 101 to take advantage of the natural synergies afforded by the proposed hospital with uses such as ancillary medical and aged care facilities. In addition to this, the Subject Site would be able to take advantage of the working and resident population through the provision of additional retail facilities and due to its close proximity to the Pacific Highway take advantage of passing trade. The studies attached to this Proposal support the economic viability of the Proposal (see **Annexure 2 and 5**).

With respect to social effects the Proposal is considered to provide further positive benefits to both public and private interests. This is considered to be the case as:

- Ancillary medical facilities in close proximity to the proposed hospital will allow for more efficient delivery of health services;
- Co-location of public and private health services will offer significant opportunities to develop a strong and competitive health offering which universities, tertiary and registered organisations will want to participate in providing education and training services;
- Aged care facilities and seniors housing in close proximity to the above medical facilities and the proposed hospital will result in good planning outcomes for the community as a whole and benefit those private residents who would eventually reside and benefit from that close proximity; and
- Those retail and other ancillary facilities would benefit from the above synergies and are therefore more likely to be commercially successful thereby providing additional and permanent employment opportunities for Byron Shire Council.

5.4 STATE AND COMMONWEALTH INTERESTS

11. Is there adequate public infrastructure for the Planning Proposal?

Lot 100 and Lot 101 are located in close proximity to the Pacific Highway. The location is considered to be suitable for the proposed hospital due to this fact as it enables the Byron Shire region to be easily connected to its location. The Proposal would also benefit from the location for these reasons.

The traffic impact assessment attached to this Proposal (see **Annexure 6**) has identified that the Ewingsdale Road/William Flick Lane/Woodford Lane intersection will need to be upgraded in the future if the development contemplated by the Proposal proceeds.

A storm water and sewerage feasibility study demonstrates that the Subject Site is capable of being connected to these services.

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

A gateway determination has not yet been issued. Given the North Health Area Service anticipates Lot 100 to be used for hospital purposes, with two other hospitals in the area closing, it can be anticipated that the provision of appropriate retail and ancillary facilities to that development would be well received.

6.0 COMMUNITY CONSULTATION

Community consultation would involve an exhibition period of 14 days. The community would be notified of the commencement of the exhibition period via a notice in a local newspaper and via a notice on the Council's website. The written notice would:

- Give a brief description of the objectives or intended outcomes of the Proposal;
- Indicate the land affected by the Proposal;
- State where and when the Proposal can be inspected;
- Give the name and address of the relevant planning authority for the receipt of submissions; and
- Indicate the last date for submissions.

During the exhibition period, the following material would be made available for inspection:

- The Proposal in a form approved for community consultation by the Director General of Planning;
- The gateway determination; and
- Any studies relied upon by the Proposal.

7.0 CONCLUSION

This Proposal requests that Council amend the Draft LEP³ to permit the provision of seniors housing, restaurants or cafes, shops, business and medical facilities at the Subject Site. There would be net benefits to the community as a result of the submission including:

- Assisting Council with meeting the expected future demand for aged care and seniors housing as outlined in a number of DOP and Council documents as outlined in this Proposal;
- Provision of speciality and ancillary medical facilities in close proximity to the proposed hospital site and Pacific Highway and therefore improved medical services delivery;
- Creation of new employment opportunities above and beyond what could be provided through a similar development in another location given the economic synergies of aged care facilities, seniors housing, medical facilities, the Pacific Highway and a hospital in close proximity to one another;
- Assisting Council in providing additional retail floor space in a location which would be easily accessible for the larger surrounding area via the Pacific Highway;
- Providing supermarket and speciality retail store to assist the viability of any seniors housing development; and
- Assisting Council in meeting the housing target of 60,400 new dwellings for the Region and 2,600 new dwellings by 2031 for Byron as outlined in NSW Governments Far North Coast Regional Strategy.

The proposed zoning changes would strongly align with the objectives of the FNCRS and similar strategic documentation in that it would provide additional and varied housing options for a growing and ageing population. In addition, the Proposal would provide permanent employment opportunities in a location that would benefit from the natural synergies provided by the close proximity of the Pacific Highway and proposed hospital.

Given the above reasons, this submission provides a robust case for the proposed amendments which can be supported by the Council on the basis of all relevant applicable town planning criteria.

³ In the event that the Draft LEP is delayed commensurate changes would be sought to Byron Local Environmental Plan 1988.